

JOURNAL
of the
**HOUSE OF
REPRESENTATIVES**
of the
General Assembly
of the
Commonwealth of Kentucky

2000 Regular Session

Volume I

**Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2000,
and in the Two Hundred and Eighth
Year of the Commonwealth**

**Begun on Tuesday, the Fourth Day of January, 2000, and Adjourned
Sine Die on Friday, April 14, 2000**

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 2000.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Wilda Bond, Kathy Green, and Stacy Smither prepared the *House Journal* for the 2000 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2000

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**JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY
REGULAR SESSION 2000
TUESDAY, JANUARY 4, 2000
FIRST LEGISLATIVE DAY**

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 4, 2000, the two hundredth and eighth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Jody Richards assumed the Chair and called the House to order.

Prayer by Dr. W.B. Bingham, Binghamtown Baptist Church, Middlesboro, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Speaker announced that the membership was the same as in the 1999 Organizational Session with the exception of a new member in the 91st District and a vacancy existing in the 43rd District. The Secretary of State Certificate of Election for the member in the 91st District is as follows:

I, John Y Brown III, Secretary of State of the Commonwealth of Kentucky, do hereby certify that the attached is a true and exact copy of the Certificate of Election issued on March 23, 1999 to Howard Cornett as the duly elected member of the House of the General Assembly, 91st Representative District, of the Commonwealth of Kentucky.

Given under my hand and seal of office this 23rd day of March, 1999.

JOHN Y BROWN III

SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY

Representative Stumbo moved that the Journal show that the gentleman from Letcher 91 has produced a Certificate of Election and that the Certificate be confirmed. Agreed.

The roll was called. All members present except Representative Crall.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Barrows moved the nomination of the following Constitutional officers to serve until December 31, 2000:

Chief Clerk, Lois Pulliam

Assistant Clerk, Julie Wheat

Enrolling Clerk, Margaret Watts

Sergeant at Arms, Emmett A. Slattery

Chief Doorkeeper, William E. Davis

Cloakroom Keeper, Virgil Crittenden

Janitor, George Fritz

Janitor, Frank Smith

Representative Barrows moved that the nominations cease and that the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable Joseph E. Lambert, Chief Justice, Supreme Court.

Representative Yonts moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Special music was presented by the Greenville Community Choir.

Representative Stumbo moved that the rules be suspended to introduce an act upon Resolutions. Agreed.

HR 16, by Representative Richards: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2000 Regular Session with prayer.

Representative Stumbo moved the adoption of the following **HR 16**:

HR 16, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2000 Regular Session with prayer.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open daily sessions of the 2000 Regular Session with prayer.

There being no objection **HR 16** was adopted.

HR 17, by Representative Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative Stumbo moved the adoption of the following **HR 17**:

HR 17, A RESOLUTION directing appointment of a committee to wait upon the Governor.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the 2000 Regular Session of the General Assembly is prepared to receive any message he may care to deliver.

There being no objection **HR 17** was adopted.

The Speaker appointed the following Committee to wait upon the Governor; Representatives Nesler, Nunn, Jenkins, Kerr, Crenshaw, Childers.

Representative Stumbo moved that the reading by title and sponsor of prefiled bills be waived and that prefiled bills be spread upon the Journal by appropriate number and sponsors in the usual manner. Agreed.

Introduction of Bills and Resolutions

HB 1, by Representative Stumbo: AN ACT relating to solid waste and making an appropriation therefor.

HB 2, by Representative Vincent: AN ACT relating to campaign expenditures.

HB 3, by Representative Damron: AN ACT relating to insurance.

HB 4, by Representative Vincent: AN ACT relating to identity theft.

HB 5, by Representative Thomas: AN ACT relating to special agricultural license plates.

HB 6, by Representative Ausmus: AN ACT relating to property taxes.

HB 7, by Representatives Stein and Marzian: AN ACT relating to civil rights.

HB 8, by Representative Collins: AN ACT relating to fines and declaring an emergency.

HB 9, by Representative Damron: AN ACT relating to health insurance.

HB 10, by Representative Nunn: AN ACT relating to the usage of tobacco by minors.

HB 11, by Representative Damron: AN ACT relating to hardship operator's licenses.

HB 12, by Representatives Jenkins and Yonts: AN ACT relating to employment.

HB 13, by Representative Napier: AN ACT relating to firearms and ammunition for firearms.

HB 14, by Representative Riggs: AN ACT relating to military license plates.

HB 15, by Representatives Damron, Bruce, Webb, C. Belcher, Hoffman, Ballard, Nesler, Childers, Worthington, Sims, Tapp, Rader, R. Adams, J. Adams, Palumbo, Stewart, Arnold, Reinhardt, P. Clark, Cherry, Siler, Baugh, Treesh, D. D. Butler, Vincent, Colter, Alexander, Ford, Allen, and Gooch : AN ACT relating to firearms and ammunition for firearms.

HB 16, by Representatives J. Adams, Ausmus, Draud, Riggs, Bruce, Richards, Wayne, Rader, A. Arnold, McKee, Hoffman, Crimm, Gray, and Thomas : AN ACT relating to the area development districts' boards of directors.

HB 17, by Representative Crimm: AN ACT relating to automobile insurance.

HB 18, by Representative Crimm: AN ACT relating to insurance agents.

HB 19, by Representative Cherry: AN ACT relating to income taxation.

HB 20, by Representative Siler: AN ACT relating to speech language pathologists.

HB 21, by Representative Draud: AN ACT relating to retirement.

HB 22, by Representative L. Clark: AN ACT relating to the Legislative Research Commission.

HB 23, by Representatives Wayne, Marzian, Stumbo, Palumbo, Stein, Jenkins, Branham: AN ACT relating to revenue and taxation.

HB 24, by Representative Bruce: AN ACT relating to investment of funds by the State Investment Commission.

HB 25, by Representative Draud: AN ACT relating to teachers.

HB 26, by Representative L. Belcher: AN ACT relating to a tax refund designation for Kentucky Educational Television.

HB 27, by Representative Buckingham: AN ACT relating to retirement.

HB 28, by Representative Crimm: AN ACT relating to school safety.

HB 29, by Representative Nunn: AN ACT relating to health insurance.

HB 30, by Representative Crimm: AN ACT relating to income tax.

HB 31, by Representative Yonts: AN ACT relating to hospitalization of the mentally ill.

HB 32, by Representative Yonts: AN ACT relating to highways.

HB 33, by Representative Yonts: AN ACT relating to trespassing.

HB 34, by Representative Yonts: AN ACT relating to crimes and punishments.

HB 35, by Representative Yonts: AN ACT prohibiting the licensing of felons as inspectors in certain occupations.

HB 36, by Representative Yonts: AN ACT relating to organ donation.

HB 37, by Representative Feeley: AN ACT relating to special license plates.

HB 38, by Representatives Branham and Childers: AN ACT relating to individual income tax.

HB 39, by Representative Draud: AN ACT relating to retirement.

HB 40, by Representative Yonts: AN ACT relating to reorganization.

HB 41, by Representative Yonts: AN ACT relating to wills.

HB 42, by Representative Yonts: AN ACT relating to sales tax on horses.

HB 43, by Representative Crimm: AN ACT relating to tourism development.

HB 44, by Representative Crimm: AN ACT relating to postsecondary education.

HB 45, by Representative Baugh: AN ACT relating to education.

HB 46, by Representative Feeley: AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

- HB 47**, by Representatives Richards and L. Belcher: AN ACT relating to crimes and punishments.
- HB 48**, by Representative Feeley: AN ACT relating to the school term.
- HB 49**, by Representative Coleman: AN ACT relating to the use of automated external defibrillators.
- HB 50**, by Representative Riggs: AN ACT relating to commercial insurance.
- HB 51**, by Representative Burch: AN ACT relating to the federal individuals with Disabilities Education Act.
- HB 52**, by Representative L. Belcher: AN ACT relating to operators of motor vehicles.
- HB 53**, by Representative Fischer: AN ACT relating to property tax.
- HB 54**, by Representative Yonts: AN ACT relating to overweight and overdimensional permits.
- HB 55**, by Representative Yonts: AN ACT relating to public records.
- HB 56**, by Representative Bratcher: AN ACT changing the classification of the city of Hollow Creek, in Jefferson County.
- HB 57**, by Representative Cornett: AN ACT relating to telephone communications with state government entities.
- HB 58**, by Representative Ausmus: AN ACT relating to exemptions from compulsory school attendance.
- HB 59**, by Representative Tapp: AN ACT relating to crimes and punishments.
- HB 60**, by Representative Yonts: AN ACT relating to probation and parole.
- HB 61**, by Representative Yonts: AN ACT relating to intergovernmental agreements.
- HB 62**, by Representative L. Belcher: AN ACT changing the classification of the City of Pioneer Village, in Bullitt County.
- HB 63**, by Representative Burch: AN ACT relating to immunizations.
- HB 64**, by Representative Draud: AN ACT relating to liability of health insurers.
- HB 65**, by Representative Thomas: AN ACT relating to income tax and declaring an emergency.
- HB 66**, by Representative Thomas: AN ACT relating to cigarettes.
- HB 67**, by Representatives Westrom, Burch, Gray, Cherry, Weaver, Riggs, C. Belcher, L. Belcher, Thompson, Haydon, Siler, Nesler, Ford, Sims, Hoffman, McKee, Palumbo, Barrows, Adkins, Palmer, Lee, Vincent, Jordan and Callahan: AN ACT relating to consumer protection.
- HB 68**, by Representative Yonts: AN ACT relating to crimes and punishments.
- HB 69**, by Representative Collins: AN ACT relating to licensing of motor vehicle dealers, manufacturers, and distributors.
- HB 70**, by Representative Kerr: AN ACT relating to civil rights.
- HB 71**, by Representatives Kerr: AN ACT relating to the safekeeping of wills.
- HB 72**, by Representatives Gray, Hoffman and Jordan: AN ACT relating to unemployment insurance.
- HB 73**, by Representative Coleman: AN ACT related to deferred deposit transactions.
- HB 74**, by Representative Nunn: AN ACT relating to Medicaid.
- HB 75**, by Representatives Marzian, Siler, Buckingham and Westrom: AN ACT relating to the personal care assistance program.
- HB 76**, by Representatives Weaver, Westrom, Graham, Riner, Siler, L. Belcher, C. Belcher, Lee, Damron, Haydon, R. Adams, Alexander, Thompson, Cherry, Bruce, Nesler, Hoffman and Napier: AN ACT relating to alternative teacher certification.
- HB 77**, by Representative Richards: AN ACT relating to student dropout prevention.
- HB 78**, by Representative Stumbo: AN ACT relating to reorganization.
- HB 79**, by Representative Stumbo: AN ACT relating to reorganization.
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HB 93, by Representative Stumbo: AN ACT relating to reorganization.

HB 94, by Representative Stumbo: AN ACT relating to reorganization.

HB 95, by Representative Stumbo: AN ACT relating to the reorganization of the Finance and Administration Cabinet.

HB 96, by Representative Stumbo: AN ACT relating to establishment of the Kentucky Tobacco Settlement Trust Corporation.

HB 97, by Representative Stumbo: AN ACT relating to reorganization.

HB 98, by Representative Stumbo: AN ACT relating to reorganization.

HB 99, by Representative Stumbo: AN ACT relating to reorganization.

HB 100, by Representative Cherry: AN ACT relating to special military-related license plates.

HB 101, by Representatives P. Clark, Draud and Fischer: AN ACT relating to property affected by actions of state agencies.

HB 102, by Representative Stumbo: AN ACT relating to reorganization.

HB 103, by Representative Stumbo: AN ACT relating to reorganization.

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HB 109, by Representative Stumbo: AN ACT relating to reorganization.

HB 110, by Representative Stumbo: AN ACT relating to reorganization.

HB 111, by Representatives Ausmus, Gooch, Tapp, Cornett, Cherry, Upchurch and Crimm: AN ACT relating to education.

HB 112, by Representative P. Clark: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property tax exemptions.

HB 113, by Representative P. Clark: AN ACT relating to election precincts.

HB 114, by Representative Yonts: AN ACT relating to traffic regulations.

HB 115, by Representative Wayne: AN ACT relating to public safety.

HB 116, by Representatives Palmer, Stacy, A. Arnold, C. Belcher, Hoffman, Nesler, McKee, Childers, Sims, R. Adams, Damron, Tapp, Upchurch, Adkins, Alexander, Wilkey, Callahan, J. Arnold, Bruce, Stewart, Stumbo and L. Belcher: AN ACT relating to crimes and punishments.

- HB 117**, by Representative Haydon: AN ACT relating to student discipline in the public schools.
- HB 118**, by Representative Hoffman: AN ACT relating to special license plates for independent colleges and universities.
- HB 119**, by Representatives Fischer, Anderson, Walton, McKee and Kerr: AN ACT relating to revenue and taxation.
- HB 120**, by Representative Graham: AN ACT relating to underground facility damage prevention.
- HB 121**, by Representative Burch: AN ACT relating to child care.
- HB 122**, by Representative Riggs: AN ACT relating to county occupational license fees.
- HB 123**, by Representative Bowling: AN ACT relating to the designation of the official rock of Kentucky.
- HB 124**, by Representative Yonts: AN ACT relating to the preparation and filing of legal documents.
- HB 125**, by Representative Yonts: AN ACT relating to emergency protective orders.
- HB 126**, by Representative Yonts: AN ACT relating to sick leave for public school teachers and employees.
- HB 127**, by Representative Vincent: AN ACT relating to the disposition of real and personal property by counties.
- HB 128**, by Representative Vincent: AN ACT relating to residential care facilities.
- HB 129**, by Representatives Vincent and Wilkey: AN ACT relating to durable powers of attorney.
- HB 130**, by Representatives Vincent and Wilkey: AN ACT relating to private data.
- HB 131**, by Representative Wayne: AN ACT relating to surplus property.
- HB 132**, by Representatives Vincent and Adkins: AN ACT relating to elections.
- HB 133**, by Representative Nunn: AN ACT relating to services for persons with mental retardation and other developmental disabilities, making an appropriation therefor, and declaring an emergency.
- HB 134**, by Representatives Feeley and Draud: AN ACT relating to school-based decision making, and declaring an emergency.
- HB 135**, by Representative Cox: AN ACT relating to elementary and secondary education.
- HB 136**, by Representative Draud: AN ACT relating to public school volunteers.
- HB 137**, by Representative Nunn: AN ACT relating to the Kentucky Long-Term Policy Research Center.
- HB 138**, by Representative Graham: AN ACT relating to higher education finance.
- HB 139**, by Representative Graham: AN ACT relating to veterans.
- HB 140**, by Representative Graham: AN ACT relating to the Department of Military Affairs.
- HB 141**, by Representative L. Clark: AN ACT relating to police radios.
- HB 142**, by Representative Yonts: AN ACT relating to members of boards of education.
- HB 143**, by Representative Wayne: AN ACT relating to relocated cities.
- HB 144**, by Representatives Lee, Nunn, L. Clark, Burch, Richards, Yonts, Gray, Wilkey, Deweese, Jordan, Callahan, Ballard, Sims, Stumbo, Buckingham, Bruce, Geveden, Cherry, Stacy, Barrows, Moberly, Lindsey, Westrom, Bowling, Damron, Graham, Draud, Haydon and Stein: AN ACT relating to services for persons with mental retardation and other developmental disabilities, making an appropriation therefor, and declaring an emergency..
- HB 145**, by Representative Geveden: AN ACT relating to the transportation of children.
- HB 146**, by Representative Geveden: AN ACT relating to the Kentucky Housing Corporation.
- HB 147**, by Representative Geveden: AN ACT relating to the issuance of bonds for low cost housing by the Kentucky Housing Corporation.
- HB 148**, by Representatives Damron, Westrom, P. Clark, Palmer, Riggs, Branham, Cherry, Ballard, Callahan, Colter, Deweese, C. Belcher, Wilkey, L. Belcher, Thompson, Collins, Graham, Coleman, Feeley, Stein, Riner, Marzian, Heleringer, Weaver, Burch, Siler, Allen, Haydon, Bratcher, Nesler, Barrows, Geveden, McKee, Ausmus, Gray, Bowling, Crimm, Richards, J. Adams, Lee, Reinhardt, Simpson and Yonts: AN ACT relating to assisted living communities.
- HB 149**, by Representative Nunn: AN ACT relating to foster children and adopted children.

HB 150, by Representative J. Adams: AN ACT relating to county and regional infrastructure development for economic development purposes.

HB 151, by Representative Geveden: AN ACT relating to driving under the influence.

HB 152, by Representative Geveden: AN ACT relating to crimes and punishments.

HB 153, by Representative Geveden: AN ACT relating to crimes and punishments.

HB 154, by Representative Geveden: AN ACT relating to safe deposit boxes.

HB 155, by Representative Damron: AN ACT relating to public administration.

HB 156, by Representative Damron: AN ACT relating to concealed deadly weapons.

HB 157, by Representative Damron: AN ACT relating to character education.

HB 158, by Representative Damron: AN ACT relating to property taxes.

HB 159, by Representative Stumbo: AN ACT relating to the Department of Law.

HB 160, by Representative Stumbo: AN ACT relating to the Department of Law.

HB 161, by Representative Siler: AN ACT relating to teacher certification.

HB 162, by Representative Coleman: AN ACT relating to consumer protection.

HB 163, by Representative Burch: AN ACT relating to senior citizen and child-care centers.

HB 164, by Representative Wilkey: AN ACT relating to compensation for returning fugitives from justice.

HB 165, by Representative Burch: AN ACT relating to child support.

HB 166, by Representative Burch: AN ACT relating to kinship care for children.

HB 167, by Representative Burch: AN ACT relating to marriage licenses.

HB 168, by Representative Burch: AN ACT relating to child support.

HB 169, by Representative Burch: AN ACT relating to criminal records.

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HB 171, by Representative Yonts: AN ACT relating to students.

HB 172, by Representative Burch: AN ACT relating to the operation of motor vehicles.

HB 173, by Representative Burch: AN ACT relating to the operation of a motor vehicle.

HB 174, by Representative Marzian: AN ACT relating to kindergarten.

HB 175, by Representative Sims: AN ACT relating to farm safety.

HB 176, by Representatives Sims, Thomas, Weaver, Damron, L. Belcher, Palmer, Bruce, Yonts, Nesler, Hoffman, Worthington, C. Belcher, Cherry, McKee and Crenshaw: AN ACT relating to revenue and taxation.

HB 177, by Representatives Nunn, Burch, Damron, Heleringer, Stein, Ausmus, Lee, Yonts, J. Arnold, Deweese, Westrom, Marzian, Palumbo and Bowling: AN ACT relating to the use of information technology in the delivery of health services, and making an appropriation therefor.

HB 178, by Representative Draud: AN ACT relating to early mathematics placement testing.

HB 179, by Representatives Colter and Siler: AN ACT relating to the school breakfast program.

HB 180, by Representatives Adkins, Webb, Bruce, Buckinham, Marcotte, Cherry, Palmer, Yonts, Nesler, Hoffman, Vincent, Stein, McKee, Westrom, Upchurch, Damron, A. Arnold, Nunn, L. Belcher, Thomas, Bowling, Weaver, Worthington, Sims, Stacy, Crenshaw, Richards and Reinhardt: AN ACT relating to postsecondary education prepaid tuition and making an appropriation therefor.

HB 181, by Representative Haydon: AN ACT relating to waiver of tuition fees for dependents of veterans.

HB 182, by Representative Stumbo: AN ACT relating to reorganization.

HB 183, by Representative Stumbo: AN ACT relating to reorganization.

HB 184, by Representative Stumbo: AN ACT relating to reorganization.

HB 185, by Representative Yonts: AN ACT relating to lifelong learning and adult education.

HB 186, by Representative Yonts: AN ACT relating to registered nurses.

HB 187, by Representative Yonts: AN ACT relating to government subsidy of housing.

HB 188, by Representative Yonts: AN ACT relating to workers' compensation.

HB 189, by Representative Nesler: AN ACT relating to health insurance coverage of city pension fund retirees and their spouses.

HB 190, by Representative Nesler: AN ACT relating to the duties of the board of trustees of pension systems in cities of the second class.

HB 191, by Representative Haydon: AN ACT relating to state leasing.

HB 192, by Representative Haydon: AN ACT relating to state leasing.

HB 193, by Representative Haydon: AN ACT relating to state leasing.

HB 194, by Representative Haydon: AN ACT relating to state leasing.

HB 195, by Representative Draud: AN ACT relating to private investigators.

HB 196, by Representatives Tapp and L. Belcher: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property tax.

HB 197, by Representatives Tapp, Crimm and L. Belcher: AN ACT relating to penalties resulting in the suspension of the license plate and registration of a motor vehicle.

HB 198, by Representative Crimm: AN ACT relating to the educational assistance of volunteer firefighters, volunteer paramedics, and volunteer emergency medical technicians.

HB 199, by Representative Crimm: AN ACT relating to dealership contracts for machinery.

HB 200, by Representative Crimm: AN ACT relating to interscholastic athletics.

HB 201, by Representatives Crimm and Gooch: AN ACT relating to health insurance.

HB 202, by Representative Westrom: AN ACT relating to inherited metabolic disease.

HB 203, by Representative Marcotte: AN ACT relating to agricultural districts.

HB 204, by Representatives Burch and Nunn: AN ACT relating to child protection.

HB 205, by Representative Graham: AN ACT relating to the Consumers' Advisory Council.

HB 206, by Representative Graham: AN ACT relating to the National Guard Tuition Award Program.

HB 207, by Representative Marcotte: AN ACT relating to property taxes.

HB 208, by Representative Yonts: AN ACT relating to organ donation.

HB 209, by Representative Stacy: AN ACT relating to economic development.

HB 210, by Representatives Damron and C. Belcher: AN ACT relating to crimes and punishments.

HB 211, by Representative L. Belcher: AN ACT relating to motor vehicle dealers.

HB 212, by Representative Draud: AN ACT relating to retirement.

HB 213, by Representatives Marzian and Westrom: AN ACT relating to the personal care assistance program.

HB 214, by Representative Stumbo: AN ACT relating to reorganization.

HB 215, by Representative Stumbo: AN ACT relating to reorganization.

HB 216, by Representative L. Belcher: AN ACT relating to hunting and fishing licenses.

HB 217, by Representative Cherry: AN ACT relating to child support.

HB 218, by Representative Stacy: AN ACT relating to charitable health care providers.

HB 219, by Representative D. Butler: AN ACT relating to ophthalmic dispensers.

HB 220, by Representative Damron: AN ACT relating to sex offenders.

HB 221, by Representative Haydon: AN ACT relating to a Rails to Trails Program.

HB 222, by Representative Haydon: AN ACT relating to the designation of the Commonwealth's official steam locomotive.

HB 223, by Representative Crimm: AN ACT relating to the levy and assessment of property taxes.

HB 224, by Representative J. Turner: AN ACT relating to compulsory school attendance.

HB 225, by Representative J. Turner: AN ACT relating to crimes and punishments.

HB 226, by Representative J. Turner: AN ACT relating to school boards.

HB 227, by Representative J. Turner: AN ACT relating to guardianship and conservatorship for disabled persons.

HB 228, by Representative J. Turner: AN ACT relating to carrying concealed deadly weapons.

HB 229, by Representative J. Turner: AN ACT relating to working of prisoners in county jails.

HB 230, by Representative J. Turner: AN ACT relating to jurors.

HB 231, by Representative J. Turner: AN ACT relating to the licensing of trailers.

HB 232, by Representative J. Turner: AN ACT relating to unemployment insurance.

HB 233, by Representative J. Turner: AN ACT relating to civil actions.

HB 234, by Representative J. Turner: AN ACT relating to emergency protective orders.

HB 235, by Representative J. Turner: AN ACT relating to property.

HB 236, by Representative P. Clark: AN ACT relating to vehicle emission testing programs.

HB 237, by Representatives Richards, Crenshaw, Stein, Wayne and Vincent: AN ACT relating to children's advocacy centers.

HB 238, by Representative Burch: AN ACT relating to the establishment of a pilot project for the practice of dentistry.

HB 239, by Representative Burch: AN ACT relating to uniform child support orders.

HB 240, by Representative Stumbo: AN ACT relating to reorganization.

HB 241, by Representative Stumbo: AN ACT relating to reorganization.

HB 242, by Representative Stumbo: AN ACT relating to reorganization.

HB 243, by Representative Stumbo: AN ACT relating to reorganization.

HB 244, by Representatives Callahan and Moberly: AN ACT relating to a building inspectors training program.

HR 1, by Representative Haydon: A RESOLUTION recognizing the Historic Bardstown Annual Antique Show.

HJR 2, by Representative Yonts: A JOINT RESOLUTION to review the educational programs in correctional institutions and make recommendations relating to the improvement and expansion of the programs.

HJR 3, by Representative Yonts: A JOINT RESOLUTION directing the Commissioner of Education to study the high rate of students dropping out of school and make recommendations to address the problem.

HJR 4, by Representative Yonts: A JOINT RESOLUTION naming the veterans home in Hanson, Kentucky in Hopkins County, "The Joseph "Eddie" Ballard Veterans Home".

HJR 5, by Representatives Hoffman, R. Adams, Alexander, C. Belcher, L. Belcher, Bruce, Cherry, Cornett, Damron, Gray, Haydon, Jenkins, Jordan, Lee, McKee, Miller, Napier, Nesler, Siler, Thompson and Weaver: A Joint RESOLUTION expressing support for the construction of a National World War II Memorial in Washington, D. C. to honor United States and Kentucky citizens who served in the Armed Forces and those who died during World War II.

HCR 6, by Representatives Ballard, R. Adams, Alexander, C. Belcher, Bruce, Cherry, Clark, Damron, Gray, Haydon, Hoffman, Lee, Napier, Nesler, Reinhardt, Siler, Thompson and Weaver: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veteran's Affairs.

HCR 7, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Helen W. Mountjoy to the Kentucky Board of Education.

HCR 8, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Nick Orlando

Rowe to the Governor's Postsecondary Education Nominating Committee.

HJR 9, by Representatives Sims, Weaver, D. Butler, Allen, R. Adams, Palumbo, L. Belcher, Coleman, Bruce, Yonts, Nesler, Ballard, Napier, Hoffman, Worthington, C. Belcher, Cherry, McKee, and Crenshaw: A JOINT RESOLUTION directing the Transportation Cabinet to name KY 101 from the Beaver Dam Chapel to KY 259 at Rhoda and KY 259 from Rhoda to KY 70 the "Veterans Memorial Highway" and to erect appropriate highway signs.

HCR 10, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the reappointment of Alayne Lackey White to the Kentucky Long-Term Policy Research Center Board.

HCR 11, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Sheila Owsley Thomas to the Postsecondary Education Nominating Committee.

HCR 12, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Jennifer M. Headdy to the Kentucky Long-Term Policy Research Center Board.

HCR 13, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the reappointment of Daniel Hall to the Kentucky Long-Term Policy research Center Board.

HJR 14, by Representatives Graham, Nesler, Gooch, Thomas, Sims, Baugh, Tapp, Fischer: A JOINT RESOLUTION urging school councils across the Commonwealth to consider adopting dress codes that require school uniforms.

HJR 15, by Representative Ausmus: A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge currently under construction connecting US 25E and US 119 over the Cumberland River in honor of Joan Asher Cawood.

HCR 18, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Lydia Carol Gabbard to the Kentucky Board of Education.

HCR 19, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Bill Weinberg to the Kentucky Board of Education.

HCR 20, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the reappointment of Laken Cosby, Jr., to the Kentucky Board of Education.

HCR 21, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the reappointment of Craig True to the Kentucky Board of Education.

HCR 22, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Margaret Katherine Harris to the Postsecondary Education Nominating Committee.

HCR 23, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Keith R. Travis to the Kentucky Board of Education.

HCR 24, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the reappointment of Jane A. Venters to the Kentucky Board of Education.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Committees meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to allow a Committee on Committees Report. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture: **HB 66, HB 96, HB 175, HB 203, HB 199, HB 67**

Appropriations and Revenue: **HB 5, HB 6, HB 19, HB 23, HB 26, HB 30, HB 38, HB 42, HB 53, HB 65, HB 102, HB 119, HB 158, HB 176, HB 207, HB 223, HB 1**

Banking and Insurance: **HB 3, HB 9, HB 17, HB 18, HB 24, HB 29, HB 50, HB 64, HB 73, HB 107, HB 162, HB 201**

Economic Development: **HB 209**

Education: **HB 20, HB 25, HB 28, HB 40, HB 44, HB 46, HB 48, HB 58, HB 77, HB 79, HB 91, HB 93, HB 117, HB**

126, HB 134, HB 135, HB 136, HB 138, HB 142, HB 149, HB 157, HB 161, HB 171, HB 174, HB 178, HB 179, HB 180, HB 185, HB 198, HB 200, HB 224, HB 226, HJR 3, HCR 7, HCR 8, HCR 11, HJR 14

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 2, HB 112, HB 113, HB 132, HB 196**

Health and Welfare: **HB 10, HB 49, HB 51, HB 63, HB 74, HB 75, HB 80, HB 81, HB 82, HB 83, HB 84, HB 121, HB 128, HB 133, HB 144, HB 163, HB 165, HB 166, HB 168, HB 170, HB 177, HB 186, HB 202, HB 204, HB 208, HB 213, HB 218, HB 237, HB 238**

Judiciary: **HB 4, HB 7, HB 13, HB 15, HB 31, HB 32, HB 33, HB 34, HB 35, HB 36, HB 41, HB 45, HB 47, HB 52, HB 59, HB 60, HB 68, HB 70, HB 71, HB 85, HB 86, HB 87, HB 88, HB 89, HB 116, HB 124, HB 125, HB 129, HB 130, HB 145, HB 151, HB 152, HB 153, HB 154, HB 156, HB 164, HB 167, HB 169, HB 187, HB 197, HB 210, HB 217, HB 220, HB 225, HB 227, HB 228, HB 229, HB 230, HB 233, HB 234, HB 235, HB 239, HJR 2**

Labor and Industry: **HB 12, HB 72, HB 104, HB 188, HB 232**

Licensing and Occupations: **HB 103, HB 106, HB 195, HB 219, HB 231**

Local Government: **HB 16, HB 56, HB 61, HB 62, HB 109, HB 115, HB 122, HB 127, HB 131, HB 143, HB 146, HB 147, HB 150, HB 155, HB 189, HB 190**

Natural Resources and Environment: **HB 97, HB 99, HB 105, HB 216**

Seniors, Military Affairs, and Public Safety: **HB 76, HB 92, HB 94, HB 139, HB 140, HB 148, HB 181, HB 206, HJR 4, HJR 5, HCR 6, HB 141**

State Government: **HB 21, HB 22, HB 27, HB 39, HB 55, HB 57, HB 78, HB 90, HB 95, HB 98, HB 101, HB 110, HB 111, HB 123, HB 137, HB 159, HB 160, HB 182, HB 183, HB 184, HB 191, HB 192, HB 193, HB 194, HB 205, HB 212, HB 214, HB 215, HB 221, HB 222, HR 1, HCR 10, HCR 12, HCR 13**

Tourism: **HB 43, HB 120**

Transportation: **HB 8, HB 11, HB 14, HB 37, HB 54, HB 69, HB 100, HB 108, HB 114, HB 118, HB 172, HB 173, HB 211, HB 236, HJR 9, HJR 15**

Report of Committees

The Committee on Committees has met and reported the following appointments:

Representatives J. Arnold, Committee on Labor and Industry

Representative Bruce, Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs

Representative Jenkins, Committee on Licensing and Occupations

Representative Johns, Committee on Licensing and Occupations

Representative Upchurch, Committee on Tourism Development and Energy.

Representative Cornett, Committee on Natural Resources and Environment, Committee on Economic Development, and Committee on Tourism Development and Energy.

Representative C. Belcher, Committee on Education.

The Committee on Committees has met and reported the following changes:

Representative Upchurch removed from the Committee on Economic Development.

Representative C. Belcher removed from the Committee on Seniors, Military Affairs, and Public Safety.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 40, HB 4, HB 46, HB 79, HB 91, HB 93, HB 97, HB 99, HB 2, HB 96**. Agreed.

Representative Stumbo moved that the rules be suspended for the introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

- HB 245**, by Representatives Geveden and Cherry: AN ACT relating to the Kentucky Unified Juvenile Code.
- HB 246**, by Representative Heleringer: AN ACT relating to annuities.
- HB 247**, by Representative Heleringer: AN ACT relating to emancipation of minors.
- HB 248**, by Representative Heleringer: AN ACT relating to hazardous duty retirement.
- HB 249**, by Representative Lee: AN ACT relating to procurement authority.
- HB 250**, by Representatives Lee and Collins: AN ACT relating to motor vehicle dealers.
- HB 251**, by Representative L. Belcher: AN ACT relating to real estate appraisers.
- HB 252**, by Representative L. Belcher: AN ACT changing the classification of the City of Hebron Estates in Bullitt County.
- HB 253**, by Representative L. Belcher: AN ACT relating to city audits.
- HB 254**, by Representative Burch: AN ACT relating to geography education.
- HB 255**, by Representatives Marzian, Burch, Johns, Gooch, Bratcher, Lee, L. Clark: AN ACT relating to anatomical gifts.

Recess

Representative Stumbo moved for the House to recess until 7:00 p.m. for the State of the Commonwealth Address. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that floor privileges be granted to Constitutional Officers and invited guests. Agreed.

The Speaker welcomed guests.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Mr. W. Tom Hall, Church of Christ Boone Plaza, Frankfort.

Master Sgt. Renin Werner, Ret. USMC led the members in the Pledge of Allegiance to the flag.

The President granted floor privileges to special guests.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Paul E. Patton.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House Chamber to address the Joint Session, appeared with the Governor.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

STATE OF THE COMMONWEALTH

BY GOVERNOR PAUL E. PATTON

TUESDAY, JANUARY 4, 2000

Speaker Richards, President Williams and members of the General Assembly, Justice Lambert and members of the Judiciary, Governor Henry and other members of the Executive, distinguished members of Kentucky's congressional delegation, my fellow Kentuckians.

Thank you for the opportunity to appear before you to discuss the state of the Commonwealth.

And I can report to you that in many ways the state of the Commonwealth is good, --- but we're not convened here to glory over the things that are good.

We're assembled in biennial session to address the things that can be made better.

And we certainly have a full plate.

But first let me thank you individually for the kindnesses and courtesies and advice and counsel that you've shown Judi and me and the other members of our administration.

It's been a memorable and productive four years and we're going to work as hard as we know how to work to make these next four even better.

And I want to thank the hundreds and even thousands of state employees who've contributed to the success of our administration and committed their lives to the people of Kentucky.

I admire the professionalism you've shown as you daily go about the business of improving the lives of our people.

I know you're the ones who do the work. You've made our administration what it is. Thank you, I'll always be in your debt.

And members of the General Assembly, I believe as we plan for the state's future, we must make it a priority to treat these employees fairly.

Over the past four years, as our administration has dealt with the issues that have made the headlines, we've also dealt with the issues that make government work, the issues like getting enough patient aides to care for our institutionalized clients.

The 69% turnover rate for these jobs is directly attributable to the fact that the private sector and every state around us pays more, much more; Ohio twice as much.

As we are assembled here tonight, 36% of these positions are vacant.

I could cite similar statistics about other job classifications.

Illinois pays correction officers 49% more than we do. Virginia pays parole officers 58% more. Indiana pays social workers 43% more.

We checked 5 jobs against 6 neighboring states, 30 comparisons; we were competitive in only 3.

As we've analyzed these problems, our attention has been drawn to the state's system of compensating its 35 or so thousand full-time employees.

The more I learn about our system, the more frustrated I become.

It's so structurally flawed and there've been so many attempts to patch it up that it's totally compromised.

Let me cite just a few facts.

18,475 of our employees are holding jobs that are assigned one or more grades lower than they should have, some as many as 5 grades too low.

We have 3,361 employees one or more grades higher than they should be. We have 3,227 employees making more than the maximum wage assigned to their grade!!!!

These last 2 groups I mentioned aren't necessarily overcompensated, in fact most aren't.

It's just that grades and minimums and midpoints and maximums are in some ways meaningless, in others inflexible.

This is a system near the point of collapse. We must address it and we're working hard to develop a proposal that will serve us and our employees better. And we'll be discussing a proposal in the very near future.

But one question we need to address it's why did it happen? Why hasn't someone already been drawing our attention to the problem?

The answer is, many state employees have no voice in Frankfort; at least the prison guard from Eddyville doesn't; the social worker from Covington doesn't; the grader operator from London doesn't.

And giving these people a voice is the reason I support collective bargaining for public employees!!!

I want to make sure that you in the General Assembly and you, the people of Kentucky watching and listening tonight, clearly understand what collective bargaining for public employees is.

It's not forcing anybody to agree to anything. It's not forcing anybody to sign a contract. It's not forcing anybody to raise taxes.

It's about government living by the same rules that government makes private businesses live by. That's the issue!!!!

I'm not saying that any group of public employees in Kentucky needs a union. That's not for me to say. That's their decision. What I am saying is that if a majority of the employees of any public employer want a union, then, just like in the private sector, they ought to have the right to have one!!!

--- and their employer ought to sit down and talk to their representatives about the terms and conditions of their employment and they ought to do it in good faith!!!

That's what our laws make private employers do. And government ought to live by the same rules!!!

Hey, folks, this isn't the end of the world. Thirty states have it including right-to-work states like Florida, Tennessee and Nevada, Iowa and Nebraska.

In fact, Kentucky gives this right to firefighters in our largest cities. If we've given this right to one group of public employees, what's wrong with giving it to all of them?

This is something we need to do and we need to do it this session!!!

While our objective in state government is to address the issues that affect our citizens' lives, to do that efficiently and effectively, we have to have an administrative structure staffed by competent, adequately compensated employees who feel they're appreciated and treated fairly.

Knowing they have a vehicle to address inequities will make them more dedicated to their task!!!

While fair treatment of our employees is essential to our success, we're also here tonight to address issues that directly affect the daily lives of our people.

The four most important issues we'll talk about this session are education; education; education; and education!!!

Let us never ease up in our efforts to improve our common schools; half our budget; the very foundation of our society; the most important task we do as a people. Let's keep up the momentum begun by the Kentucky Education Reform Act!!!

March 29, 1990 was this body's finest hour. That was a day when statesmen and stateswomen took to the floor of these chambers and stood up for the children of Kentucky, the future of Kentucky, without regard for their own political future!

What that legislature and Governor Wilkinson did is still legendary in the minds of the leaders of education in this country because they know how right for children it was and how hard for politicians it was to do. Let us not lose the vision, let us stay the course!!!!

We must continue to provide the financial support necessary to do the job.

I'm proud of the fact that during our watch we have fully funded the transportation element of KERA, we've guaranteed teachers a cost-of-living increment and we've fully funded our technology program, giving Kentucky the most technologically advanced classrooms in the nation!!!

But we must do more!

As a minimum, basic SEEK must get a 2.4% increase. We must fund all the family resource centers envisioned in KERA. We must do more to help our teachers do a better job, a very difficult job, the most important job in Kentucky, and we must do something to reduce dropouts!!!

On another level, we must persevere in our commitment to make postsecondary education an equally high priority.

Let us fulfill the promise we made to the people of Kentucky almost three years ago, when we enacted the Kentucky Postsecondary Education Improvement Act of 1997.

This is the crucial session for that initiative. We've set specific goals for the year 2020. The Council on Postsecondary Education has told us what we need to do this session to keep on track towards those goals.

We have more discussions ahead, but in the end, we must listen to those we instructed to give us the framework to get to where we want to be.

We must fund the Council's final recommendations!!!

And let us not forget the adult Kentuckians who, for whatever reason, didn't get the education they needed during the traditional years or whose work life has changed and who need more education to keep up with the changing economy or who need to change careers.

Let us heed the message of the task force on adult education that we created last session and let's give hope to those in danger of being left behind!!!

And let us not forget our children, our very young children, those whose environment has been altered by the pressures of modern society.

I, like many of you, didn't fully understand how the brain develops during the first years, even the first months of a child's life. In fact, I didn't understand it at all.

I thought you just fed 'em and protected 'em and when they got to be five or six years old you just programmed their little computer brains and inputted a lot of data into their little random-access memories and everything would be fine.

I thought their brains came already assembled like their heart and their eyes and their legs.

But I was wrong; they don't come with a ready-built brain, they come with an erector set; all the bits and pieces but little of it put together.

A child's brain is assembled by life experiences. And the experiences can be good or bad. Their brain can be assembled right or wrong.

This brain development happens at a reverse exponential rate, extremely high at birth, almost finished at puberty.

Very young children need nurturing and protection but they also need good health, a challenging environment, social contact with their peers, and caring parents who're knowledgeable about the needs of their infant. As best we can, we need to help them have these things.

We have to realize that modern lifestyles, as wonderful as they are in many ways, have changed the way we raise our children. Most of these changes are good. Some are not.

Because of our mobile society, many young parents have lost the family support system of parents and grandparents and brothers and sisters and aunts and uncles that many of us relied on as we developed our parenting skills.

We have thousands of young parents, many of them young single women, struggling to raise very young children and support them with none of the support that most of us had; many without the experience of being raised in a caring nurturing home.

The time has come for us to do what Ohio and Florida and North Carolina and many other states have done.

And the reimbursement by the tobacco companies for smoking-related healthcare costs the state has incurred gives us the chance to do that.

Realizing that we're going to spend millions of dollars helping older kids who've gone wrong because of inadequate early care, let's reduce those costs in the future by investing in these kids earlier, in their most formative years.

Let's do what's right for us as taxpayers, for the parents, for our children; and let's do it now!!!

As important as education is, there are other needs we have to address.

A top priority among these is economic opportunity for our people; the opportunity to use the education we're going to provide.

For the past eight years, I've been intimately involved in the states efforts to improve our economy. I'm proud of what we've done. We need to do more.

I'm open to ideas about how we can become even more attractive to emerging high-tech industries and financial services companies.

We must begin immediately building that knowledge-based economy we'll need for the 21st century; the only kind of economy that can bring us the prosperity we seek!!!!

As we look at growing our overall economy, let's not forget our traditional industries in trouble, coal and tobacco.

We've already addressed one major issue

with coal, worker's compensation, and the industry is still in trouble. It's still facing the threat of cheap western production.

Let's face up to the fact that regardless of the near-term prospects of our coal industry, it will not sustain the people of our coal-producing regions in the future.

We must and will continue to pursue alternatives!

We will not neglect the social and economic needs of our citizens in the coal fields, especially the Eastern Kentucky coalfields!!!

Eight years ago we recognized those needs and with the leadership of Governor Jones we made a commitment to devote 50% of the coal severance tax to rebuilding their economy.

We're making progress towards that goal and I promise my people that the budget I present two years from now will reach that goal.

We will live up to our commitment!!!!

The challenge now is to invest these resources wisely.

I'm pleased with what we've done so far with the Local Government Economic Development program.

But we've only just begun. I am determined that, using this and other tools that the legislature has made available to Eastern Kentucky, four years from now, with my personal involvement, we will begin to see tangible and significant results that, pursued for twenty years, will fundamentally change the region!!!

Yes, we've developed special programs to help build the economy of Eastern Kentucky, an area which has special needs.

There's another part of our society, another geographic area, that needs special attention.

That's our inner cities, many times the homes of some of our most disadvantaged African-American citizens.

We need to take the same kind of extraordinary action, the development of special programs and incentives, to induce economic revival in our inner cities, just as we've done in Eastern Kentucky.

I've studied this problem since I was Secretary of the Economic Development Cabinet and I believe that we've finally come up with a program that will help.

I'll be discussing this idea with you in the not too distant future.

And while we're talking about our inner cities, let's talk about our society's policy of the throw-away city. Just because we have abundant open space in the proximity of our cities that is the backbone of our agriculture economy, and is relatively cheap in one sense of the word, is no reason to ignore the long-term cost of random growth.

Let's not just abandon our hundred-year-old downtowns and let them become deteriorated and the least valued part of our community.

Let's not live like a ringworm, destroying the center and leaving it to decay while expanding outward into our natural areas and having only the outward ring of prosperity surrounding an ever-increasing area of decline.

And let's preserve the natural uniqueness which is rural Kentucky.

It's more than Black Mountain and the Red River Gorge, and the Palisades of the Kentucky River and the Land Between the Lakes.

We have such a beautiful state. Let's set aside some of our most unique areas so that future generations of Kentuckians can enjoy what we sometimes take for granted.

And let us make a commitment to keep it clean!!!

We live in times of unparalleled prosperity and we're creating waste at an unprecedented pace.

And it doesn't make any difference whether we live in a city or in rural Kentucky.

Today, everybody creates large amounts of solid waste and it's everybody's responsibility to properly dispose of it!!!

We've made a lot of progress since Senate Bill 2 was passed in the 1991 extraordinary session.

The time has come to make another step toward a cleaner Kentucky!!!

As we think about rural Kentucky, our minds, of necessity, turn to agriculture, our original industry and one that has created in our people the kind of moral values and the work ethic that makes Kentucky a great place to live and work.

All of our agriculture industry is in trouble, but it's tobacco that has systemic problems that are beyond our control, conditions that will reshape our society.

The time has come for us to realize, and for political leaders to admit, that tobacco will not play the role in our lives in the future that it has in the past.

Big tobacco has lost about all the political battles they can lose.

They aren't as dependent on our political support as they once were.

As they continue to face financial pressure, I expect they'll take any measures they can to reduce costs and try to survive.

They've pulled practically all their manufacturing out of Kentucky. They're working everyday to increase the capacity of burley tobacco growers around the world.

The future of the Kentucky tobacco farmer is not their primary concern.

But it is ours. Let's get on with the business of building a different farm economy, especially for our family farms!!!!

We truly have a once-in-a-lifetime opportunity to make fundamental change in rural Kentucky as we decide what to do with the money being reimbursed to the state as a result of the Master Settlement Agreement with the tobacco companies.

A substantial amount of this reimbursement, but not all, must be spent to help the family farm, and these funds must be spent right!!!!

I solicit your continued input as we develop a program for their use.

The budget's going to be tough but I will not submit to you a budget that uses the Phase I tobacco money to solve the budget problems and I won't sign one that does!!!!

It's the only hope we have to begin new programs and there are some new things we need to do in addition to helping our farmers and our very young children.

We need to address the issue of the high cost of health insurance for our fellow Kentuckians who have to buy their health insurance in the individual market.

Most Kentuckians have group insurance where the risk is spread over a large group like insurance is supposed to be. The individual market just doesn't work that way.

Let's look to the monies being paid to the state for incurred costs of healthcare to help our sickest people who buy their insurance in the individual market, many of them farmers, enjoy the benefits of shared risk.

Let's restore a competitive healthcare insurance market so these citizens can realize the benefits of the economies the insurance companies will have to pursue as they compete for their business.

It's the American way, and it's the right thing to do!!! Let's restore competition to the market!!!!

And let us not forget the welfare of our fellow citizens who are less fortunate than we.

Like most Kentuckians, when I was in the private sector, I didn't have occasion to be exposed to the problems of our disadvantaged fellow citizens.

I chose to criticize those who were on welfare and didn't work because I viewed them from my perspective, through my eyes, as a person who'd never experienced their hardships or seen it in my family.

I was one of those who resented my hard-earned money going to support people who didn't work, not realizing that in fact it was only pennies of my tax money.

But let me tell you that eighteen years in public service has changed my view. I've had to deal with the problems of unfed children, homeless parents, untreated illnesses.

I've seen the struggle of parents trying to care for very loved and very special children; worrying about what's going to happen to their child when they get too old to care for them. I've been to Oakwood, and Central State, and the Home of the Innocents.

I've seen it.

And until you've seen it, my fellow Kentuckians, my friends in the legislature, don't pass judgment on the needs of this very special group of Kentuckians.

I know how Louie Nunn felt when he became governor and had to face up to the terrible neglect our society was showing for these children, no matter their age, who will always need someone to care for them. I respect his courage for doing what he had to do, and his skill in getting it done.

That's why, when his son came to Frankfort with Jimmie Lee two months ago I committed myself to ask for substantial increases in funding for mental health and mental retardation.

I endorsed their proposal and I committed to including it in our budget, and I will, and that's the only specific increased spending I've committed to publicly.

I don't know where we'll get the money, but I'm determined to do it because I realize that every time I see one of our less fortunate special people with special needs, I think to myself, there but for the grace of God go I; or Judi or our children or our grandchildren; or someone else I love.

The people of Kentucky are special. We will take care of our special people!!!

We have other social needs that we must and will address but we have a responsibility to address all the needs of our people, current and future.

As we address our immediate needs, we cannot neglect the future needs of our society; the infrastructure essential to the success of our people; the roads, the schools, our water and sewer systems, our cultural facilities and our prisons, our parks and courtrooms, our airports and playgrounds; all those things that make our communities livable, our cities safe, our economy grow.

We're prosperous and safe and enjoy a high quality of life today because of the infrastructure built and paid for by those who've come before us.

They balanced our future needs against their current needs because they realized their obligation to leave Kentucky better than they found it.

We have the same obligation to our children and their children's children. No matter how tight the budget is, no matter how pressing the current needs are, we must live up to our obligation to invest some of our resources in the infrastructure of our society.

Our responsibility is to serve all the people of Kentucky and even though a particular need may affect only a few of our people, if we serve one, we should serve all!!!

All of our people need access to postsecondary education. It's no longer for the few.

The same goes for some of the other things that many Kentuckians have taken for granted but some Kentuckians still don't have; things like roads and water and sewer and community facilities.

I always say a good road in front of your house isn't a big thing unless you don't happen to have one. Then, it's just about the most important thing in the world.

It's only 5% of our population who still live on a dirt or gravel road but if you're one of those 5%, you know what I'm talking about.

I'll be calling on this legislature to develop a program which will set us on a course of providing every Kentuckian a decent road to their home, and getting that done in twenty years!!!

Another essential of modern life is water. An adequate source of safe, clean drinking water is nothing to get upset about unless you don't happen to have any; then it becomes a matter of life and death.

And over 10% of our people don't have it.

I'll also call on you to make a similar commitment to provide water to every Kentuckian and we can do that within 20 years, too!!!

I've mentioned some of the issues we should address this session but we have a lot more to do.

Let us continue to support our law enforcement officers, our courts, our entire criminal justice system that helps Kentucky have one of the lowest crime rates in the nation.

We'll be suggesting ways to reduce the incidents of rape, and the trauma it causes. We must address the inadequacies of our public defender system and let's improve our campaign finance law. Let's support the arts and our parks and the recreation facilities that add so much joy to life.

Let us not shrink from the challenge that is before us!!!

Let us take care of the present, let us invest in the future, let us do what's right, and fair. Let's invest in every part of the Commonwealth. Let's look at the needs of every citizen. And let's make sure that every Kentuckian pays their fair share of the cost of government!!!

We all know that government doesn't give us anything; government is we the people, pooling some of our resources to do the things that we, through our elected representatives, think we have to do.

All that anyone should expect from government is that our money be spent efficiently and effectively and we all be required to contribute our fair share according to our ability.

Let's look at our tax structure; all of our tax structure!!! Let's make sure, as best we can, that it's adequate and that it's fair!!!

As we begin our work to determine the direction of our society for the next century, let us be cognizant of our opportunities and responsibilities.

We have the opportunity to have a great session.

This will be the third session that our administration has worked with most members of House leadership.

We know each other very well and we have a healthy working relationship.

We're all aware of the leadership changes that have occurred in the Senate which will require us to develop new working relationships and I'm confident they'll be just as healthy and productive.

To the Democrats in the Senate, you can take pride in the leadership that you've provided that body over the years.

You've dealt honorably with the challenges that come with responsibility.

In this session you must concentrate on advancing the causes you champion by building bipartisan coalitions around specific issues that are important to you and the people you serve.

And to the newly empowered Republican majority in the Senate, you have achieved your goal of majority status in that body.

I'm confident that you can deal with responsibility as well as authority.

The people will be looking to you to focus on issues and not partisanship, an admonition I would deliver to all members of the legislature and to myself and our administration.

This is a time for statesmanship!!!!

And finally, we must decide what our primary objective is, the next election or the business of the people.

For me, the choice is clear. I've found that the majority of the people are wiser than many politicians realize.

I've found that the people, the silent majority, not the vocal, selfish minority, want us to address the hard issues, to do what's right; and trust their judgment.

After all, the people's primary interest is not that any particular individual is re-elected but rather that their long-term interests are served.

To each individual legislator, let me say that I understand that we will not agree on every issue. My position will prevail on some, yours on others. Let us keep each issue separate.

Let us not engage in retribution on one subject because of a disagreement on another. To do differently would be an invitation to gridlock.

And we can't afford to do that, for the sake of our people.

I hold no personal or political animosity towards any of you. I know of none of you who hold ill will towards me as an individual.

We have a challenging three months ahead of us. I hope to finish our work here with an even closer relationship than we have now.

And I and the people of Kentucky expect us to finish this session having made a difference for the better in the life of every Kentuckian!!!

I look forward to working with you these next three months and these next four years to build that better opportunity for all our people; that's what the people sent us here to do. That's what I intend to do.

And that's what I know we will do!!!

Good night. God bless you.

Representative Stumbo moved that the Joint Session be dissolved. Agreed.

The Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo announced the following meeting:

Legislative Ethics Commission, January 5 and 6, 2000, at 9:00 a.m.

JOURNAL OF THE HOUSE OF REPRESENTATIVES
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The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 148 Representatives Stewart, Tapp

HB 180 Representatives J. Adams, C. Belcher

Announcements

The Committee on Elections and Constitutional Amendments will meet at 10:30 a.m., on January 5, 2000.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 5, 2000. The motion to adjourn was adopted without objection.

WEDNESDAY, JANUARY 5, 2000

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rev. Gary Straub, First Christian Church, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 4, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 256, by Representative Nunn: AN ACT relating to a simplified method for modifying child support, child custody, and visitation orders of a minor child.

HB 257, by Representative Marcotte: AN ACT changing the classification of the City of Union, in Boone County.

HB 258, by Representatives Vincent, Baugh, Colter, Adkins, Webb, Sims, DeWeese, L. Belcher, Bruce, and Thompson: AN ACT relating to retirement.

HB 259, by Representative Haydon: AN ACT relating to mechanics' liens.

HB 260, by Representative Buckingham: AN ACT relating to the Education Professional Standards Board.

HR 25, by Representatives Callahan, Reinhardt, Simpson, R. Adams, Draud, Fischer, McKee, Walton, Kerr, and Marcotte: A RESOLUTION adjourning the House of Representatives in honor of Don Wiedeman upon the occasion of his retirement.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 246**

Education: **HB 254, HCR 18, HCR 19, HCR 20, HCR 21, HCR 22, HCR 23, HCR 24**

Health and Welfare: **HB 255**

Judiciary: **HB 245, HB 247**

Licensing and Occupations: **HB 251**

Local Government: **HB 244, HB 252, HB 253**

State Government: **HB 240, HB 241, HB 242, HB 243, HB 248, HB 249**

Transportation: **HB 250**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 51, HB 121, HB 133, HB 177, HB 186, HB 202, HB 204, HB 213, HB 237**

Report of Committees

The Committee on Education reported **HB 79**, **HB 91**, and **HB 93**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 79, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 98-1671 of the Department of Education, dated December 17, 1998, which reorganizes the Department of Education into the following: the Office of Communications, the Office of Human Resources and Equity, the Office of District Support Services, the Office of Budget and Financial Management, the Office of Special Instructional Services, the Office of Teacher Education and Certification, the Office of Leadership and School Improvement, the Office of Supportive Learning Environments, the Office of Assessment and Accountability, and the Office of Academic and Professional Development. The Division of Management Assistance Programs is transferred from the Office of Legal Services to the Office of District Support Services. The Bureau of Learning Results Services and the Office of Learning Programs Development are abolished. The relevant duties, functions, responsibilities, records, equipment, facilities, and support budgets of the Department of Education shall be transferred to the appropriate organizational unit or administrative body to effectuate the provisions of the Executive Order, as confirmed by this section. Executive Orders 95-112, 93-689, and 93-542 and 1994 Ky. Acts Ch. 256, which reorganized the Department of Education, remain in effect except to the extent that they are modified by this section.

HB 91, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 98-869, issued by the Governor on July 8, 1998, which organizes the Kentucky Higher Education Assistance Authority into the following divisions:

- (1) Division of Student and Administrative Services, which shall be responsible for administration of the state-funded student aid program, the Kentucky Educational Savings Plan Trust, outreach, development and dissemination of student financial aid information, personnel, and other administrative support functions including records, facility management, and document processing performed by the authority. The division shall be headed by a director appointed by the executive director of the authority in accordance with KRS 164.746(7), KRS 164.748(21), and KRS 12.050.
- (2) Division of Information Resources and Technology, which shall be responsible for managing the authority's information resources and technology. The division shall be headed by a director appointed by the executive director of the authority in accordance with KRS 164.746(7), KRS 164.748(21), and KRS 12.050.
- (3) Division of Legal Services, which shall be responsible for all legal requirements and activities of the authority. The division shall be headed by the authority's general counsel who shall be appointed by the executive director of the authority in accordance with KRS 164.746(7), KRS 12.050, and KRS 12.210(1).
- (4) Division of Loan Policy Services, which shall be responsible for policy development and client inquiries, contract management, appeals, compliance, and market development for loans. The division shall be headed by a director appointed by the executive director of the authority in accordance with KRS 164.746(7), 164.748(21), and KRS 12.050.
- (5) Division of Loan Program Administration, formerly named the Division of Program Administration, which shall continue to be responsible for administering the Federal Family Education Loan Program in accordance with federal laws and regulations and providing the origination services of student loans for lenders. The division shall be headed by a director appointed by the executive director of the authority in accordance with KRS 164.746(7), KRS 164.748(21), and KRS 12.050.
- (6) Division of Financial Affairs, formerly named the Division of Fiscal Affairs, which shall be headed by a director appointed by the executive director of the authority in accordance with KRS 164.746(7), KRS 164.748(21), and KRS 12.050.

HB 93, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test or an equivalent score, as determined by

the council, on the Scholastic Assessment Test;

- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Kentucky educational excellence~~[Commonwealth merit]~~ scholarship" means a scholarship provided to an eligible student to attend a participating institution;
- (7) "Kentucky educational excellence~~[Commonwealth merit]~~ scholarship curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;
- (8) "Kentucky educational excellence~~[Commonwealth merit]~~ scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence~~[Commonwealth merit]~~ scholarship trust fund;
- (9) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (10) "Eligible student" means any person who is a Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;
- (11) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (12) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (13) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (14) "Maximum award amount" means the sum of the proportionate base scholarship amount earned by an eligible student in each academic year of high school study and any supplemental award earned by an eligible student. The amount so determined shall be the maximum amount available to the eligible student for any award period;
- (15) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a)
 - 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; and
 - (b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;
- (16) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (17) "Supplemental award" means commitment of additional scholarship funds under KRS 164.7879(3) to an eligible student based on the eligible student's ACT score.

Section 2. KRS 164.7877 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson Kentucky Educational Excellence~~[Commonwealth Merit]~~ Scholarship Trust Fund" to which shall be credited net lottery revenues transferred in accordance with KRS 154A.130; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private.
- (2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in KRS 164.7871 to 164.7885 and KRS 164.7889.
- (3) The council shall administer the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship trust fund. Upon the approval of the council, the authority may expend funds from the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship trust fund that are necessary and reasonable to meet the expenses of administering the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship trust fund.

Section 3. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence~~[Commonwealth merit]~~ scholarship awards shall be based upon an established base scholarship amount and an eligible student's grade point average. The base scholarship amount for students attaining a grade point average between 2.5 and 4.0 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.50	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.50
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.50		

The council shall review the base amount of the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) The authority shall commit to provide to each eligible student the base amount of the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship for each academic year of high school study in the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship curriculum that the student has attained at least a 2.5 grade point average. The award shall be based upon the eligible student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship through the promulgation of an administrative regulation by the council.
- (3) (a) The authority shall commit to provide to each eligible student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

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- (c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who graduate from a nonpublic high school not certified by the Kentucky Board of Education and Kentucky residents who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

Section 4. KRS 164.7881 is amended to read as follows:

- (1) Every eligible student who has graduated from high school and who has earned a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship, or a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and a supplemental award, shall be eligible to receive the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship, or the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and the supplemental award, for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.
- (2) To receive the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship or a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award, an eligible student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship or a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship or a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award for a cumulative total of eight (8) academic terms if the student enrolls full-time in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible student for an award period shall be disbursed by the authority to the eligible student in two (2) equal installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible student.
 - (c)
 1. An eligible student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible student shall have a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.
 2. Any eligible student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
 3. Any eligible student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each eligible student enrolled as a full-time or part-time student at the participating institution.
 5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
 - (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an

attending physician, which would render the student unable to attend classes;

- (c) Natural disasters that would render a student unable to attend classes; or
- (d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

- (6) An eligible student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship, or the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and the supplemental award for a maximum of ten (10) academic terms. The expiration of an eligible student's five (5) year eligibility shall be extended to six (6) years for eligible students meeting the requirements of this subsection.
- (7) Each eligible student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District.

Section 5. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students during the academic year. The list shall identify the high school and shall contain each eligible student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The authority shall notify each eligible student of his or her Kentucky educational excellence~~[Commonwealth merit]~~ scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible student of the final determination. The authority shall make available a list of eligible students to participating institutions.
- (2) Not later than January 30, 1999, and each January 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students expected to graduate during the academic year. The list shall identify the high school and shall contain each eligible student's name, Social Security number, address, grade point average for the fall academic period of the current academic year, and highest ACT score. The authority shall then calculate each eligible student's projected Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award based on the eligible student's data available to the Authority and shall make available to participating institutions by April 1 of each academic year a comprehensive list of prospective graduates who are eligible students and their projected scholarship and supplemental award amounts. The authority shall notify each prospective high school graduate who is an eligible student of his or her projected Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award amount.
- (3) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible student or have been listed by the eligible student on the Free Application For Federal Student Aid.
- (4) For each eligible student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence~~[Commonwealth merit]~~ scholarship or Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and supplemental award through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school;
 - (c) The eligible student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible student's cumulative grade point average after the completion of each award period.
- (5) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible students enrolled for that academic term. Kentucky educational excellence~~[Commonwealth merit]~~ scholarships and supplemental awards shall be disbursed by the authority to each eligible student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (6) Except as provided in this subsection, the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and the supplemental award shall not be reduced.
 - (a) If the sum of the Kentucky educational excellence~~[Commonwealth merit]~~ scholarship and the supplemental award plus other student financial assistance from all sources exceeds the eligible student's total cost of education, as defined in 20 U.S.C. sec. 1087ll, need-based financial assistance awards administered by the authority and the participating institution shall be reduced by the amount that all student financial assistance exceeds the total cost of education.
 - (b) Kentucky educational excellence~~[Commonwealth merit]~~ scholarships and supplemental awards shall not be

awarded to any eligible students who are in default on any obligation to the authority under any programs administered by the authority under KRS 164.785 until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence~~[Commonwealth merit]~~ scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Section 6. KRS 154A.130 is amended to read as follows:

- (1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.
- (2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.
- (3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
- (a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars (\$1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and
 - (b) To the early reading incentive fund, one million eight hundred thousand dollars (\$1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.
- (4) After the allocation of three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
- (a) To the Wallace G. Wilkinson Kentucky educational excellence~~[Commonwealth merit]~~ scholarship trust fund established in Section 3 of this Act:
 - 1. Seven million dollars (\$7,000,000) in fiscal year 1999-2000;
 - 2. Fifteen percent (15%) in fiscal year 2000-2001;
 - 3. Twenty-five percent (25%) in fiscal year 2001-2002;
 - 4. Thirty-two percent (32%) in fiscal year 2002-2003;
 - 5. Forty percent (40%) in fiscal year 2003-2004; and
 - 6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and
 - (b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:
 - 1. Fourteen million dollars (\$14,000,000) in fiscal year 1998-1999;
 - 2. Fifteen million dollars (\$15,000,000) in fiscal year 1999-2000;
 - 3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
 - 4. Forty percent (40%) in fiscal year 2003-2004;
 - 5. Forty-five percent (45%) in fiscal year 2004-2005; and
 - 6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.
- (5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation.

The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

- (6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:
- (a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;
 - (b) A statement identifying the auditing firm;
 - (c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and
 - (d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 7. The General Assembly hereby confirms Executive Order 98-1592, issued by the Governor on December 3, 1998, to the extent that it is not otherwise confirmed by this Act.

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **HB 2**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT relating to campaign expenditures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 119.205 is amended to read as follows:

- (1) Any person who makes or offers to make an expenditure to any person~~[, either]~~ to vote or withhold his vote,~~[or]~~ to vote for or against any candidate or public question, or to sign a petition to have a public question placed on the ballot at an election shall be guilty of a Class D felony.
 - (2) Any person who solicits, accepts, or receives any such expenditure as payment or consideration for his vote~~[,]~~ or the withholding of his vote,~~[or]~~ to vote for or against any candidate or public question, or to sign a petition to have a public question placed on the ballot at an election shall be guilty of a Class D felony.
 - (3) For purposes of this section, "expenditure" means any of the following when intended as payment or consideration for voting or withholding a vote,~~[, or the withholding of a vote]~~, voting for or against any candidate or public question, or signing a petition to have a public question placed on the ballot:
 - (a) A payment, distribution, loan, advance, deposit, or gift of money or anything of value; or
 - (b) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a payment, distribution, loan, advance, deposit, or gift of money or anything of value.
- "Expenditure," as used in this section, shall not include the distribution of materials bearing the name, likeness, or other identification of a candidate, political party, committee, or organization, or position on a public question and not intended as payment or consideration for voting or withholding a vote,~~[, or the withholding of a vote]~~, voting for or against any candidate or public question, or signing a petition to have a public question placed on the ballot.
- (4) Any candidate or committee, or any person on his behalf, who pays any person, including campaign workers, for transporting voters to the polls on the day of the election, shall make all payments by check. All payments, regardless of amount, shall be reported to the Registry of Election Finance in the manner that the Registry shall provide by administrative regulation. Any person who knowingly violates any requirement of this subsection shall be guilty of a Class

B misdemeanor.

- (5) In addition to the above provisions, a person may be convicted of a violation of this section pursuant to KRS 502.020.

The Committee Substitute to **HB 2** is as follows:

Committee Substitute to HB 2, AN ACT relating to campaign expenditures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 119.205 is amended to read as follows:

- (1) Any person who makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.
- (2) Any person who solicits, accepts, or receives any such expenditure as payment or consideration for his vote, or the withholding of his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.
- (3) Any person who makes or offers to make an expenditure to any person to sign a petition to have a public question placed on the ballot, or any person who solicits, accepts, or receives any such expenditure as payment or consideration to sign a petition to have a public question placed on the ballot, shall be guilty of a Class B misdemeanor.
- (4) For purposes of this section, "expenditure" means any of the following when intended as payment or consideration for voting or withholding a vote, ~~or the withholding of a vote~~, voting for or against any candidate or public question, or signing a petition to have a public question placed on the ballot:
 - (a) A payment, distribution, loan, advance, deposit, or gift of money or anything of value; or
 - (b) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a payment, distribution, loan, advance, deposit, or gift of money or anything of value."Expenditure," as used in this section, shall not include the distribution of materials bearing the name, likeness, or other identification of a candidate, political party, committee, or organization, or position on a public question and not intended as payment or consideration for voting or withholding a vote, ~~or the withholding of a vote~~, voting for or against any candidate or public question, or signing a petition to have a public question placed on the ballot.
- ~~(5)(4)~~ Any candidate or committee, or any person on his behalf, who pays any person, including campaign workers, for transporting voters to the polls on the day of the election, shall make all payments by check. All payments, regardless of amount, shall be reported to the Registry of Election Finance in the manner that the Registry shall provide by administrative regulation. Any person who knowingly violates any requirement of this subsection shall be guilty of a Class B misdemeanor.
- ~~(6)(5)~~ In addition to the above provisions, a person may be convicted of a violation of this section pursuant to KRS 502.020.

The Committee on Natural Resources and Environment reported **HB 97** and **HB 99** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 97, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Council on Postsecondary Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Kentucky Commission on Human Rights;
- (5) Kentucky Commission on Women;
- (6) Kentucky Commission on Military Affairs;
- (7) Kentucky Coal Council ~~Coal Marketing and Export Council~~;
- (8) Governor's Office of Child Abuse and Domestic Violence Services;
- (9) Office of the Chief Information Officer; and
- (10) Office of Coal Marketing and Export.

Section 2. KRS 132.020 is amended to read as follows:

- (1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (\$0.315) upon each one hundred dollars

(\$100) of value of all real property directed to be assessed for taxation, and one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products, one-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl, one-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (\$0.15) upon machinery actually engaged in manufacturing, fifteen cents (\$0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (\$0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent (\$0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

- (2) (a) An annual ad valorem tax for state purposes of one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:
 1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
 2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
 3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and
 4. Tobacco base allotments.
- (b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.
- (3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.
- (4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.
- (5) Thirty cents (\$0.30) of the thirty-one and one-half cents (\$0.315) state tax rate on real property and thirty cents (\$0.30) of the forty-five cents (\$0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (\$0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.
- (6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet,

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make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

- (8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.
- (9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ for the purpose of public education of coal-related issues.
- (10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents (\$0.05) upon each one hundred dollars (\$100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.
- (11) An ad valorem tax for state purposes of ten cents (\$0.10) per one hundred dollars (\$100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.
- (12) An ad valorem tax for state purposes of one and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.
- (13) An ad valorem tax for state purposes of one and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 3. KRS 143.090 is amended to read as follows:

- (1) The Transportation Cabinet shall certify to the secretary of the Revenue Cabinet by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.
- (2) The Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall certify to the secretary of the Revenue Cabinet by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council~~[Coal Marketing and Export Council]~~. The amount so certified shall in no case exceed three million dollars (\$3,000,000) in any one (1) year.
- (3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the secretary of the Revenue Cabinet shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council~~[Coal Marketing and Export Council]~~, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:
 - (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and
 - (b) An amount equal to the amount certified by the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council~~[Coal Marketing and Export Council]~~.
- (4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall be deposited by the Revenue Cabinet to the credit of the general fund.
- (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the secretary of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 4. KRS 154.12-250 is amended to read as follows:

- (1) The Kentucky Coal Council~~[Coal Marketing and Export Council]~~ is established within the Office of the Governor. The council shall provide direction to the Governor in marketing efforts targeted to increasing opportunities for Kentucky coal and other products and it shall carry out other duties and responsibilities as assigned by the Governor.
- (2) The Office of Coal Marketing and Export is established within the Office of the Governor. The office shall carry out the purposes of the council and provide other staff support as is deemed necessary.
- (3) All personnel, equipment, supplies, and records relating to the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall be transferred to the Office of Coal Marketing and Export in the Office of the Governor.

Section 5. KRS 154.12-252 is amended to read as follows:

- (1) The Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall be composed of fourteen (14) members, as follows:
- (a) The secretary to the Governor's Executive Cabinet, who shall serve as vice chair of the council;
 - (b) The secretary of the Transportation Cabinet;
 - (c) The deputy secretary of the Natural Resources and Environmental Protection Cabinet;
 - (d) The executive director of the Kentucky Coal Council~~[Coal Marketing and Export Council]~~;
 - (e) A representative of the Alliance of Kentucky Coal appointed by the Governor; and
 - (f) Nine (9) citizen members appointed by the Governor for terms of four (4) years. These citizen members shall include representatives of interests concerned with the marketing of Kentucky coal and other products, such as the owners or operators of companies involved in coal production, transportation, and consumption; representatives of the academic and financial communities; and representatives of major coal and industry associations. As the terms expire, the Governor shall appoint successors for terms of four (4) years. Each citizen member shall serve until his successor is appointed.
- (2) Council members shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as council members.
- (3) The council shall, at a minimum, meet once every quarter.
- (4) Eight (8) members of the council shall constitute a quorum for the purpose of conducting business.
- (5) The council shall elect a chair on a biennial basis from the council's citizen membership.

Section 6. KRS 154.12-255 is amended to read as follows:

The Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall annually or more frequently, as deemed necessary, forward recommendations to the secretary of the Cabinet for Economic Development and the Governor on areas critical to marketing Kentucky coal and other products including, but not limited to:

- (1) Promotion of Kentucky coal through development of market information;
- (2) Coordination of ongoing research and marketing programs relating to coal production, transportation, and consumption;
- (3) Identification of national and international market developments relating to coal and other products; and
- (4) Provision of advice to coal operators and other industries seeking to enter or expand domestic or export markets.

Section 7. KRS 224.46-850 is amended to read as follows:

- (1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.
- (2) It shall be the responsibility of the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 8. KRS 224.46-870 is amended to read as follows:

The Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).

Section 9. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Revenue Cabinet in such manner and in such form as may be prescribed by regulations issued by the Revenue Cabinet and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Revenue Cabinet for the proper administration of KRS 247.910 and this section. The Kentucky Coal Council~~[Coal Marketing and Export Council]~~ shall provide technical assistance and factual information as requested in writing by the Revenue Cabinet. If the Revenue Cabinet finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Revenue Cabinet shall give notice in writing by mail to the Kentucky Coal Council~~[Coal Marketing and Export Council]~~, and shall afford to the applicant and to the Kentucky Coal Council~~[Coal Marketing and Export Council]~~ an opportunity for a hearing. On like notice and opportunity for a hearing, the Revenue Cabinet shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;

- (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Revenue Cabinet, in lieu of revoking the certificate, may modify it.
 - (4) On mailing of notice of the action of the Revenue Cabinet revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
 - (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Kentucky Coal Council~~Coal Marketing and Export Council~~. Notice of an order of the Revenue Cabinet denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Kentucky Coal Council~~Coal Marketing and Export Council~~. The applicant or holder and the Kentucky Coal Council~~Coal Marketing and Export Council~~ shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
 - (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Revenue Cabinet to the Kentucky Board of Tax Appeals as provided in KRS 131.340.
 - (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Kentucky Coal Council~~Coal Marketing and Export Council~~ and the Revenue Cabinet.
 - (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Kentucky Coal Council~~Coal Marketing and Export Council~~ and to the Revenue Cabinet.
 - (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 10. KRS 262.875 is amended to read as follows:

- (1) There shall be created a committee to advise the Governor on state activities that may contribute to the conversion of farmland to nonfarm uses. The committee shall be called the Interagency Farmland Advisory Committee and the members shall be appointed by the Governor and shall include one (1) representative for each of the following:
 - (a) Governor's Cabinet;
 - (b) Finance and Administration Cabinet;
 - (c) Revenue Cabinet;
 - (d) Transportation Cabinet;
 - (e) Natural Resources and Environmental Protection Cabinet;
 - (f) Kentucky Coal Council~~Coal Marketing and Export Council~~;
 - (g) Department of Agriculture;
 - (h) Department for Local Government;
 - (i) Department of Fish and Wildlife Resources;
 - (j) Environmental Quality Commission;
 - (k) Soil and Water Conservation Commission;
 - (l) Dean, College of Agriculture, University of Kentucky;
 - (m) Two (2) farmer owners and operators of one hundred fifty (150) acres or less, one (1) selected from a list of three (3) persons recommended by the Kentucky Farm Bureau, and one (1) selected from a list of three (3) persons recommended by the National Farmers Organization;
 - (n) Two (2) farmer owners and operators of more than one hundred fifty (150) acres, one (1) selected from a list of three (3) persons recommended by the Kentucky Farm Bureau, and one (1) selected from a list of three (3) persons recommended by the National Farmers Organization; and

- (o) The joint chairpersons of the Interim Joint Committee on Agriculture and Natural Resources.
- (2) The representative of the Natural Resources and Environmental Protection Cabinet shall be the chairperson of the committee, and the representative of the Soil and Water Conservation Commission shall be the vice chairperson of the committee. The staff for the committee shall be provided by the Natural Resources and Environmental Protection Cabinet.
- (3) In order to advise the Governor, the committee shall review proposed state projects which will convert farmland to nonfarm use. The review shall consider alternatives to the project proposal in an effort to balance the public purpose to be served by the state project against the public purpose of conserving productive farmland.
- (4) The Interagency Farmland Advisory Committee shall review proposed projects of all state agencies, including but not limited to, boards and commissions. The review shall be limited to proposed projects which will require the acquisition of more than fifty (50) acres of farmland.
- (5) During the planning stage of the project and before any action is taken to acquire farmland, the state agency shall submit a report to the committee. The report shall explain the project, contain an agricultural impact assessment, highlight the location of land that must be acquired, present the reasons for needing the land, and explain the reasons for rejecting alternatives to the proposed project.
- (6) All state projects shall be located to provide minimal interference with the productivity of agricultural lands of statewide importance as identified by KRS 246.065.
- (7) The committee shall provide notice of the proposed project to the local community by publishing the notice in the newspaper of greatest local circulation within fifteen (15) days after receiving the report. The notice shall solicit comments on the proposal and state that a public hearing will be held upon a request received within fifteen (15) days of the last published notice. If requested, the public hearing shall be held within fifteen (15) days after receiving the request. No later than ten (10) days after the hearing, the committee shall file its report and any recommendations to the Governor. The committee may recommend to the Governor that action be taken by the Governor to alter the proposed state project if necessary to balance the public interests.
- (8) A majority of the members of the committee constitutes a quorum for conducting business, and any action taken in the name of the committee requires an affirmative vote of a majority of the members present and voting.
- (9) Members shall receive no compensation but shall be reimbursed for expenses incurred.

Section 11. The General Assembly hereby confirms Executive Order 98-1049, dated August 6, 1998, which changes the name of the Coal Marketing and Export Council within the Office of the Governor to the Kentucky Coal Council.

HB 99, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The Office of Inspector General is established within the Office of the Secretary of the Natural Resources and Environmental Protection Cabinet.**
- (2) The Office of Inspector General shall be headed by an executive director appointed by the secretary of the Natural Resources and Environmental Protection Cabinet, subject to approval of the Governor as provided in KRS 12.050.**
- (3) The office shall:**
 - (a) Be responsible for investigating alleged violations of environmental laws and administrative regulations;**
 - (b) Coordinate and provide support for the Natural Resources and Environmental Protection Cabinet's participation in investigations involving the cabinet, other Kentucky state agencies, and agencies of other states and the federal government; and**
 - (c) Be responsible for administrative investigations necessary for the effective and efficient management of the cabinet.**
- (4) The Office of Inspector General shall be composed of organizational entities deemed appropriate by the secretary of the Natural Resources and Environmental Protection Cabinet.**

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment,

facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.

- (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.**
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
- 7. Cabinet for Families and Children:
 - (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.

- (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.

- (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.

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- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 3. The Central Investigation Section, established within the Office of Legal Services of the Natural Resources and Environmental Protection Cabinet by Executive Order 96-697, and transferred to the secretary's office by Administrative Order No. 98-02, is abolished.

Section 4. The General Assembly confirms Executive Order 99-413, dated March 30, 1999, to the extent it is not otherwise confirmed or superseded by this Act.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Nunn moved the adoption of the following **Legislative Citation No. 3**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Iva Allen Brown and hereby honors her as a cherished and esteemed Kentucky citizen. Whereas, Ms. Brown, better known as Ivy to all who loved her, had a long and loving life working for and with the family of Louie and Beula Nunn; and whereas, Ms. Brown worked for and with Beula Nunn for fifty-six years in the care and raising of Ms. Nunn's five children; and whereas, Ms. Brown and her husband, Willie, worked for and with the Nunn family, moving to Frankfort in 1967, where the Browns met and maintained many friends from all across Kentucky; therefore, the members of this august body join Representative Stephen R. Nunn in honoring the memory of both Willie Brown, who passed away two years ago at the age of seventy-four, and Ivy Brown, who passed away on January 1, 2000, at the age of eighty-seven, for serving as a special part of the Nunn family, who continue to love and appreciate the many contributions this couple's presence lent to this family and this Commonwealth; in expressing deepest sentiments of sympathy to all those who share in the loss of this cherished couple; and, in adjourning on this day in loving memory of Ivy Brown, who will long be remembered by all those who were touched by her remarkable generosity, compassion and grace. Done in Frankfort, this fifth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 3 was adopted without objection.

The following meeting was announced:

Local Government, upon adjournment, January 6, 2000, room to be announced later.

Representative Burch moved that **HB 163, HB 167, HB 169, and HB 239** be withdrawn. Agreed.

Representative Crimm moved that **HB 199** be withdrawn. Agreed.

The following meeting was announced:

Judiciary, January 6, 2000, 12:00 noon.

Representative Callahan moved to suspend the rules to act upon a Resolution. Representative Callahan moved the

adoption of the following **HR 25**:

HR 25, A RESOLUTION adjourning the House of Representatives in honor of Don Wiedeman upon the occasion of his retirement.

With kindest respect and deepest admiration, we pay tribute to Don Wiedeman, who retired on December 31, 1999, as executive director of the Northern Kentucky Home Builders Association.

WHEREAS, Don Wiedeman has served as executive director of the Northern Kentucky Home Builders Association since 1963, and during this time, guided the association from a small chapter to the eighth largest local home builders association in the country; and

WHEREAS, Don Wiedeman has played a major role in the establishment of the Northern Kentucky Home Builders Association Home Show, the Cavalcade of Homes, the Parade of Homes, and other projects which provide needed nondues income to the association; and

WHEREAS, Don Wiedeman was elected and served as the 1974 president of the National Association of Home Builders Executive Officers Council; and

WHEREAS, Don Wiedeman has generously devoted his time as an association executive to help younger members of the industry; and

WHEREAS, Don Wiedeman has worked diligently for thirty-six years to keep housing affordable and obtainable for all citizens of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes that Don Wiedeman, during his many years of service to the Northern Kentucky Home Builders Association, has demonstrated strong character and is a model of true strength to all whose lives he has touched.

Section 2. The House of Representatives recognizes that Don Wiedeman has demonstrated an unwavering dedication to the citizens of this great Commonwealth, and during his tenure as executive director of the Northern Kentucky Home Builders Association, he has served as an inspiration to his peers through his endless efforts and tireless commitment to the causes and beliefs he has steadfastly supported.

Section 3. The House of Representatives hails and commends Don Wiedeman, and wishes to him upon his retirement continued success in all future endeavors.

Section 4. When the House of Representatives adjourns this day, it does so in honor of Don Wiedeman upon the occasion of his retirement on December 31, 1999.

Section 5. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Don Wiedeman, 209 Grandview Drive, Ft. Mitchell, Kentucky 41017.

There being no objection **HR 25** was adopted.

Representative Callahan moved the adoption of the following **Legislative Citation No. 2**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Katrina Amend for a life lived to the fullest and the vitality of heart which has brought her thus far. Born on December 4, 1897, while William McKinley was president of the United States, this most esteemed citizen recently marked the momentous milestone of having lived during three centuries. Through her truly remarkable life, she has witnessed the invention of the television, the automobile, and air travel; endured the trials and tribulations of the Great Depression and both major World Wars and has shone forth as; a devoted wife, mother, and family woman, an avid bowler who bowled twice a week until the age of ninety-nine and a treasured citizen who has lived her life with the utmost integrity and enthusiasm. The entire membership is delighted to join with Representative Jim Callahan in affording highest regards to Katrina Amend for the outstanding contributions she has made to her family, her community and this Commonwealth and in extending to her best wishes for continued good health and good fortune. Done in Frankfort, this fifth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 2 was adopted without objection.

The following meeting was canceled: Economic Development January 6, 2000

Representative J. Arnold moved that the rules be suspended to introduce an act upon a Resolution. Agreed.

HR 27, by Representatives J. Arnold, Treesh, and Crall: A RESOLUTION relating to the recent storm and tornado damage sustained by the citizens of Owensboro and Daviess County, Kentucky.

Representative J. Arnold moved the adoption of the following **HR 27**:

HR 27, A RESOLUTION relating to the recent storm and tornado damage sustained by the citizens of Owensboro and Daviess County, Kentucky.

WHEREAS, the recent storm and tornado which passed through Owensboro and Daviess County, Kentucky, has been recognized as the most devastating storm that the citizens of those localities have experienced in 200 years, leaving in its flooded path a trail of destruction with damaged or destroyed homes, businesses, barns, and silos; and

WHEREAS, this honorable body takes note of the many reports detailing the timely response of scores of individuals and public and private agencies to meet the needs and offset the deprivations of the citizens of Owensboro and Daviess County and the surrounding areas that have resulted from the recent storm, with the responses being facilitated due to public and private cooperation in local and statewide emergency management programs; and

WHEREAS, there remains much to be done in assisting the people of Owensboro and Daviess County and the surrounding area in putting their lives, homes, businesses, and farms in order after this storm;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body wishes to express and extend its heartfelt sympathy to those citizens living in Owensboro and Daviess County, Kentucky, and in the surrounding areas, whose lives, homes, businesses, and farms were affected by the recent storm and tornado.

Section 2. This honorable body commends those many individuals and agencies, both public and private, which have so quickly responded to the needs of the people in and around Owensboro and Daviess County and expresses its gratitude for their tireless efforts in assisting their fellow Kentuckians through this difficult time.

Section 3. This honorable body encourages the Governor of the Commonwealth of Kentucky, the Honorable Paul Patton, to exercise the full extent of his authority as the head of the executive branch of government to mobilize and make use of all available means, both state and federal, of assisting both the residents of Owensboro and the citizens of Daviess County, Kentucky, as well as those affected persons living in the surrounding areas.

Section 4. The Clerk of the House of Representatives is directed to immediately transmit a copy of this resolution upon its passage to the Governor of the Commonwealth of Kentucky, the Honorable Paul Patton, Room 100, State Capitol Building, Frankfort, Kentucky, 40601.

There being no objection **HR 27** was adopted.

Representative Geveden moved that **HB 146** be withdrawn. Agreed.

The following meeting was canceled: Banking and Insurance

The following meeting was announced: Agriculture, January 6, 2000, 12:00 noon.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution.

HR 26, by Representatives Stumbo and Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Pamela Jones Gray.

Representative Stumbo moved the adoption of the following **HR 26**:

HR 26, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Pamela Jones Gray.

With deepest respect and admiration, we pay homage and tribute to Pamela Jones Gray, and we pause in silent reverence for her soul.

WHEREAS, Pamela Jones Gray was born on June 5, 1944, a native of Martin, Floyd County, Kentucky, and she traversed these earthly bounds on January 3, 2000; and

WHEREAS, Pamela Jones Gray was the loving daughter of the late Everette and Marie Ratliff Jones; and

WHEREAS, Pamela Jones Gray was the devoted wife of Joseph M. Gray, and she was the loving mother of two stepdaughters, Lesley M. Henney, Louisville, and Julie K. Saville, Eufala, Alabama; a stepson, John K. Gray, Austin, Texas; a brother, Ron Jones, Morehead; and she was the proud grandmother of three grandchildren; and

WHEREAS, even though Pamela Jones Gray was a longtime resident of Franklin County, she never wavered in expressing her pride, loyalty, and strong commitment for the people of Eastern Kentucky, the backbone of America; and

WHEREAS, Pamela Jones Gray was a devout member of the Disciples of Christ Church; and

WHEREAS, all who knew and admired Pamela Jones Gray will grieve over their loss, and she is mourned across the

length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Pamela Jones Gray, and extends to her family and friends its most heartfelt sympathy.

Section 2. A memorial service celebrating her life was held on January 5, 2000, at 1:00 p.m. at Sunset Funeral Home in Frankfort, Kentucky.

Section 3. When the House of Representatives adjourns this day, January 5, 2000, it does so in loving memory and honor of Pamela Jones Gray.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Joseph M. Gray, 240 Briar Patch Lane, Frankfort, Kentucky 40601.

There being no objection **HR 26** was adopted.

Representative Stumbo moved that **HB 238** be reassigned to the Committee on Licensing and Occupations. Agreed.

Representative Stumbo moved that **HB 236** be reassigned to the Committee on Local Government. Agreed.

Representative Stumbo moved that the rules be suspended to introduce Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills (Continued)

HB 261, by Representative Barrows: AN ACT relating to school facilities construction.

HB 262, by Representatives Napier, Adkins, Vincent, Reinhardt, Riner, Geveden, Damron, Alexander, Palmer, Stacy, Crenshaw, Colter, D. D. Butler, T. Turner, J. Turner, Baugh, Fischer, Rader, Bowling, Moberly, Siler, Miller, Nunn, Lee, Palumbo, Johns, Childers, and Ford: AN ACT relating to family care homes.

HB 263, by Representative Burch: AN ACT relating to driver's licenses.

HB 264, by Representative Burch: AN ACT relating to hate crimes.

HB 265, by Representatives Barrows and Graham: AN ACT relating to an annual leave sharing program for state employees.

HB 266, by Representative Barrows: AN ACT relating to personal telecommunications devices in public schools.

HB 267, by Representatives Wayne, Burch, Colter, Scott, Marzian, Jenkins, Horlander, Johns, P. Clark, Westrom, Nunn, and Jordan: AN ACT related to Medicaid reimbursement for dentists and making an appropriation therefor.

HB 268, by Representatives Damron, J. Adams, C. Belcher, Stein, Crenshaw, DeWeese, Bowling, Palumbo, L. Clark, Marzian, Lee, Graham, Burch, Jordan, Westrom, Heleringer, Jenkins, Sims, Nunn, Johns, Wayne, Callahan, and Anderson: AN ACT relating to mental health and substance abuse.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 22, HB 27, HB 78, HB 90, HB 95, HB 98, HB 110, HB 137, HB 159, HB 160, HB 182, HB 183, HB 184, HB 214, HB 215**

Floor Amendment

Floor Amendment No. 1 to the Committee Substitute to **HB 2**, by Representative Lindsey:

On page 1, line 8, by deleting "Any person who" and inserting in lieu thereof "If any proponent of a ballot measure"; and
On page 1, line 9, by deleting "who"; and

On page 1, line 10, after the word "expenditure" by inserting "from any proponent of a ballot measure"; and

On page 1, lines 11 and 12, by deleting "shall be guilty of a Class B misdemeanor" and inserting in lieu thereof "the public question shall not be placed on the ballot, or, if the question has already been placed on the ballot, then the public"

question shall be void".

Motions, Petitions, and Communications (Continued)

Representative Thomas moved the adoption of the following **Legislative Citation No. 1**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Kentucky Burley Tobacco Growers Cooperative Association for outstanding contributions to, and laudable stewardship rendered on behalf of, the agricultural industry of both this Commonwealth and region. Responsible for the administration of the price support program in Kentucky, Ohio, Indiana, Missouri and West Virginia, this esteemed non-profit organization has, since 1941, ensured that tobacco farmers receive fair prices, develop a stronger voice and maintain a better way of life by issuing federal allotments that limit the amount of tobacco a farmer can market in a sales season, ultimately assuring that the American taxpayer does not subsidize the costs of leaf tobacco production. Inasmuch as the Kentucky Burley Tobacco Growers Cooperative Association has made many and lasting contributions to the economic vitality of this Commonwealth and has worked diligently and with great effort on behalf of the farmers of this region, the members of this august body are delighted to join with Representative Roger Thomas in welcoming its board members to the Chambers of the House of Representatives to witness a day in the 2000 Regular Session of the General Assembly and in extending best wishes for a delightful visit and continued good fortune in the future. Done in Frankfort, this fourth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 1 was adopted without objection.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 92	Representative Cherry
HB 94	Representative Cherry
HB 144	Representatives Bratcher, Heleringer
HB 155	Representative Marcotte
HB 176	Representatives Heleringer, Rasche, Treesh, Vincent
HB 179	Representatives Adkins, Alexander, Allen, Ausmus, Burch, L. Clark, Ford, Hoffman, Jenkins, Jordan, Marzian, Miller, Scott, Stein, Wayne, Yonts
HB 180	Representatives Anderson, Collins, Draud
HB 202	Representatives Damron, Wayne
HB 213	Representatives Ausmus, Buckingham, Jenkins, Johns, Jordan, Siler, Stewart

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 6, 2000, 1998.

On the roll call the vote was **Yeas 78**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Coleman, Collins, Colter, Crenshaw, Crimm, Damron, DeWeese, Draud, Fischer, Geveden, Graham, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Moberly, Napier, Nesler, Nunn, Palmer, Palumbo, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Tapp, Treesh, T. Turner, Upchurch, Vincent, Wayne, Weaver, Westrom, Wilkey, Worthington, Yonts.
Nays 4--Bratcher, Crall, Hoover, Stewart.

The motion to adjourn was adopted.

JANUARY 6, 2000
THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rev. Charles Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Scott and Cox.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 5, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 269, by Representative Nesler: AN ACT relating to the Kentucky Law Enforcement Foundation Program fund.

HB 270, by Representative Nesler: AN ACT relating to motor vehicle usage tax.

HB 271, by Representative Nesler: AN ACT relating to motor vehicle usage tax.

HB 272, by Representative Nesler: AN ACT relating to motor vehicle usage tax.

HCR 28, by Representative Richards: A CONCURRENT RESOLUTION confirming the reappointment of Dr. Paul Cook to the Kentucky Long-Term Policy Research Center Board.

HCR 29, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Judy Lyne to the Kentucky Long-Term Policy Research Center Board.

HCR 30, by Representative Richards: A CONCURRENT RESOLUTION confirming the reappointment of Dr. Betty Griffin to the Kentucky Long-Term Policy Research Center Board.

Reference of Bills

The Clerk reported that the Committee on Committees has referred the following Bills:

Education: **HB 260, HB 261, HB 266**

Health and Welfare: **HB 262, HB 267, HB 268**

Judiciary: **HB 256, HB 259, HB 264**

Local Government: **HB 257, HB 258**

State Government: **HB 265**

Transportation: **HB 263**

Posting of Bills for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 12, HB 72, HB 188**

Local Government: **HB 56**

Transportation: **HB 8, HB 69, HB 250**

Health and Welfare: **HB 144**

The following Bill has been withdrawn from Committee consideration: **HB 133**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 96** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 96, AN ACT relating to establishment of the Kentucky Tobacco Settlement Trust Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' Attorneys General dated November 23, 1998;
- (b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;
- (c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and
- (d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.

(2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(3) The corporation shall be directed by a board of directors, which shall include:

- (a) The Governor, who shall serve as chair of the corporation;
- (b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;
- (c) The Attorney General, who shall serve as secretary of the corporation;
- (d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;
- (e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;
- (f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;
- (g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and
- (h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.

(4) Members of the board shall be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.

(6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the settlement trust.

(7) The corporation's duties shall include, but not be limited to:

- (a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;
- (b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;
- (c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;

- (d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;
 - (e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;
 - (f) Submitting information required by the trustee of the settlement trust;
 - (g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions;
 - (h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section; and
 - (i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary.
- (8) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Superintendent of Public Instruction.
- 8. Auditor of Public Accounts.
- 9. Railroad Commission.

II. Program cabinets headed by appointed officers:

- 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.

- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Commission on Correction and Community Service.
- 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:
 - (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
 - (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.

- (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
 - (x) Kentucky Tobacco Settlement Trust Corporation.**
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.

- (e) Department for Employment Services.
- (f) State Board for Adult and Technical Education.
- (g) Governor's Council on Vocational Education.
- (h) The State Board for Proprietary Education.
- (i) The Foundation for Adult Education.
- (j) The Kentucky Job Training Coordinating Council.
- (k) Office of General Counsel.
- (l) Office of Communication Services.
- (m) Office of Development and Industry Relations.
- (n) Office of Workforce Analysis and Research.
- (o) Office for Administrative Services.
- (p) Office for Policy and Budget.
- (q) Office of Personnel Services.
- (r) Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 3. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) Kentucky Pollution Abatement Authority;
- (3) Kentucky Savings Bond Authority;
- (4) County Officials Compensation Board;
- (5) Kentucky Turnpike Authority;
- (6) State Investment Commission;
- (7) Kentucky Housing Corporation; ~~and~~
- (8) Governmental Services Center; *and*
- (9) Kentucky Tobacco Settlement Trust Corporation.

Section 4. The initial citizen members of the Kentucky Tobacco Settlement Trust Corporation Board shall be those appointed in accordance with, and for the terms specified in, Executive Order 99-1000.

Section 5. The General Assembly hereby confirms Executive Order 99-1000, issued by the Governor on July 15, 1999, to the extent that it is not otherwise confirmed by this Act.

The Committee on Judiciary reported **HB 4** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to identity theft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of stealing the identity of another when, without the other's consent, he or she possesses or uses any identifying information of the other person, such as one's name, Social Security number, birth date, personal identification number or code, which is kept in documents, photo or electrical copies, computer storage, or any other form of document retrieval and storage, and the theft is committed with the intent to represent that he or she is the other person for the purpose of:
 - (a) Depriving the other person of property;
 - (b) Obtaining benefits or property to which he or she would otherwise not be entitled;
 - (c) Making financial or credit transactions using the other person's identity;
 - (d) Avoiding detection;
 - (e) Harassment, as defined in KRS 525.070; or
 - (f) Commercial or political benefit.
- (2) Theft of identity is:
 - (a) For a first offense, a Class D felony;
 - (b) For a second or subsequent offense, a Class C felony.
- (3) Provisions of this section shall not apply to misrepresentations as to age covered under KRS 244.085.
- (4) This section does not apply to KRS 434.550 to 434.730.
- (5) Prosecutions under this section shall be governed by KRS 500.060 and if the victim is in Kentucky it is considered that trial may be held in the county where the victim resides.

SECTION 2. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of trafficking in stolen identities when without the other's consent, he manufactures, sells, transfers, purchases, or possesses with intent to manufacture, transfer, purchase, or sell the personal identity of another person for any purpose listed in subsection (1) of Section 1 of this Act. The personal identity of an individual includes any identifying information of that person, such as one's name, Social Security number, birth date, personal identification number or code, which is kept in documents, photo or electrical copies, computer storage, or any other form of document retrieval and storage.
- (2) Possession of five (5) or more separate identities shall be prima facie evidence that the identities are possessed for the purpose of trafficking.
- (3) Trafficking in stolen identities is:
 - (a) For a first offense, a Class C felony;
 - (b) For a second or subsequent offense, a Class B felony.
- (4) This section does not apply to KRS 434.550 to 434.730.
- (5) Prosecutions under this section shall be governed in KRS 500.060 and if the victim is in Kentucky it is considered that trial may be held in the county where the victim resides.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) Anyone who is a victim under Section 1 or 2 of this Act shall have a cause of action for compensatory and punitive damages against anyone who violates Section 1 or 2 of this Act. The statute of limitations in such cases shall not begin to run against the injured person until after the date of conviction of the defendant is final.
- (2) A person found guilty of violating any provisions of Section 1 or 2 of this Act shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of such violation. Financial loss may include any costs incurred by such victim in correcting the credit history of such victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.

- (3) A person found guilty of violating any provisions of Section 1 or 2 of this Act shall pay restitution to the person or entity that suffers the financial loss. In addition to the financial loss detailed in subsection (2) of this section, the person or entity may include a financial institution, insurance company, or bonding association that suffers direct financial loss as a result of such violation.
- (4) A person found guilty of violating any provisions of this statute shall lose any lawful claim to property or other such benefit realized as a result of such violation.

The Committee Substitute to **HB 4** is as follows:

HB 4, AN ACT relating to identity theft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of the theft of the identity of another when, without the other's consent, he or she knowingly possesses or uses any identifying information of the other person, such as one's name, Social Security number, birth date, personal identification number or code, which is kept in documents, photo or electrical copies, computer storage, or any other form of document retrieval and storage, and the theft is committed with the intent to represent that he or she is the other person for the purpose of:
- (a) Depriving the other person of property;
 - (b) Obtaining benefits or property to which he or she would otherwise not be entitled;
 - (c) Making financial or credit transactions using the other person's identity;
 - (d) Avoiding detection; or
 - (e) Commercial or political benefit.
- (2) Theft of identity is a Class D felony.
- (3) This section shall not apply when a person obtains the identity of another to misrepresent his or her age for the purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.
- (4) This section does not apply to credit or debit card fraud under KRS 434.550 to 434.730.
- (5) Where the offense consists of theft by obtaining or trafficking in the personal identity of another person, the venue of the prosecution may be in either the county where the offense was committed or the county where the other person resides.
- (6) A person found guilty of violating any provisions of this section shall forfeit any lawful claim to the identifying information, property, or other realized benefit of the other person as a result of such violation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of trafficking in stolen identities when without the other's consent, he manufactures, sells, transfers, purchases, or possesses with intent to manufacture, transfer, purchase, or sell the personal identity of another person for any purpose listed in subsection (1) of Section 1 of this Act. The personal identity of an individual includes any identifying information of that person, such as one's name, Social Security number, birth date, personal identification number or code, which is kept in documents, photo or electrical copies, computer storage, or any other form of document retrieval and storage.
- (2) Possession of five (5) or more separate identities shall be prima facie evidence that the identities are possessed for the purpose of trafficking.
- (3) Trafficking in stolen identities is a Class C felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) Anyone who is a victim under Section 1 or Section 2 of this Act shall have a cause of action, either where the victim resides or the defendant resides, for compensatory and punitive damages against anyone who violates Section 1 or Section 2 of this Act.
- (2) The statute of limitations for cases under the provisions of this section shall be five (5) years from the date of the discovery of the violation of Section 1 or Section 2 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

- (1) A person found guilty of violating any provisions of Section 1 or Section 2 of this Act shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of the violation. Financial loss may include any costs incurred by the victim in correcting the credit history of the victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.
- (2) A person found guilty of violating any provisions of Section 1 or Section 2 of this Act shall pay restitution to the person

or entity that suffers the financial loss. In addition to the financial loss detailed in subsection (1) of this section, the person or entity may include a financial institution, insurance company, or bonding association that suffers direct financial loss as a result of the violation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys and county attorneys for the prosecution of offenses under and the enforcement of the provisions of Sections 1, 2, 3, and 4 of this Act.

Calendar

HB 79, HB 91, HB 93, HB 2, HB 97, and HB 99 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 79, HB 91, HB 93, HB 97, and HB 99** have been posted for passage in the Orders of the Day for January 7, 2000.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Marzian moved that **HB 75** be withdrawn. Agreed.

Representative Cherry moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 31, by Representative Cherry: A RESOLUTION relating to the recent storm and tornado damage sustained by the citizens of Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky.

Representative Cherry moved the adoption of the following **HR 31**:

HR 31, A RESOLUTION relating to the recent storm and tornado damage sustained by the citizens of Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky.

WHEREAS, the recent storm and tornado which passed through Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky, has been recognized as the most devastating storm that the citizens of those localities have experienced in 200 years, leaving in its flooded path a trail of destruction with damaged or destroyed homes, businesses, barns, and silos; and

WHEREAS, this honorable body takes note of the many reports detailing the timely response of scores of individuals and public and private agencies to meet the needs and offset the deprivations of the citizens of Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky, and the surrounding areas that have resulted from the recent storm, with the responses being facilitated due to public and private cooperation in local and statewide emergency management programs; and

WHEREAS, there remains much to be done in assisting the people of Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky, and the surrounding areas in putting their lives, homes, businesses, and farms in order after this storm;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body wishes to express and extend its heartfelt sympathy to those citizens living in Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky, and in the surrounding areas, whose lives, homes, businesses, and farms were affected by the recent storm and tornado.

Section 2. This honorable body commends those many individuals and agencies, both public and private, which have so quickly responded to the needs of the people in and around Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky, and in the surrounding areas, and expresses its gratitude for their tireless efforts in assisting their fellow Kentuckians through this difficult time.

Section 3. This honorable body encourages the Governor of the Commonwealth of Kentucky, the Honorable Paul Patton, to exercise the full extent of his authority as the head of the executive branch of government to mobilize and make use of all available means, both state and federal, of assisting both the residents of Crittenden County and the communities of Crayne, Piney Fork, and Shady Grove, Kentucky, as well as those affected persons living in the surrounding areas.

Section 4. The Clerk of the House of Representatives is directed to immediately transmit a copy of this resolution upon its passage to the Governor of the Commonwealth of Kentucky, the Honorable Paul Patton, Room 100, State Capitol Building, Frankfort, Kentucky, 40601.

There being no objection **HR 31** was adopted.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 273, by Representative D. Butler: AN ACT relating to certified public accountants.

HB 274, by Representatives Marzian, Heleringer, Callahan, Stumbo, Wayne, Jenkins, Johns, Richards, DeWeese, L. Clark, Stein: AN ACT relating to advanced registered nurse practice.

HB 275, by Representatives J. Adams and Geveden: AN ACT relating to interlocal agreements between cities, counties, charter counties, and urban-county governments.

HB 276, by Representatives P. Clark and Crall: AN ACT relating to capital projects.

HB 277, by Representatives J. Arnold and Gooch: AN ACT relating to watershed conservancy districts.

HB 278, by Representatives Damron, Weaver, R. Thomas, Worthington, Anderson, Alexander, C. Belcher, Ballard, R. Adams, Hoffman, Bruce, Coleman, Geveden, Crimm, Feeley, Haydon, Walton, Crall, Kerr, Siler, J. Adams, P. Clark, Treesh, Horlander, Napier, Lee, Simpson, Moberly, Reinhardt, Cherry, and Riggs: AN ACT relating to military burial honors, making an appropriation therefor, and declaring an emergency.

HB 279, by Representative Draud: AN ACT relating to high school instruction in comparative religion.

HCR 32, by Representatives Marzian and L. Clark: A CONCURRENT RESOLUTION calling upon the United States Congress to increase the oversight power and authority of the United States Postal Rate Commission.

Posting of Bills for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

State Government: **HB 265**

Motions, Petitions, and Communications (Continued)

The following meeting was announced:

Labor and Industry, January 12, 2000, 8:30 a.m., Room 125

Representative P. Clark moved that the rules be suspended to withdraw a bill. Agreed.

Representative P. Clark moved that **HB 101** be withdrawn. Agreed.

Representative Riner moved to suspend the rules for the Introduction of a Bill. Agreed.

HB 280, by Representative Riner: AN ACT relating to legislative ethics.

Representative Riner moved that a call of the roll be taken to show co-sponsors of **HB 280**.

Representative Ford inquired if a suspension of the rules was for the reason of introducing a Bill, not for co-sponsoring a Bill. Does this set a bad precedent?

The Speaker ruled that this can be done under a suspension of the rules but may set a bad precedent.

Representative Stumbo said that co-sponsors to the Bill will be secured in the regular manner and Representative Riner was in agreement.

Floor Amendment

The Clerk announced the filing of the following Floor Amendment to a Bill:

Floor Amendment No. 1 to **HB 31**, by Representative Yonts:

On page 1, line 20, to delete "Commonwealth's" and to insert in lieu thereof "County"; and

On page 1, line 25, to delete "Commonwealth's" and to insert in lieu thereof "County"; and

On page 2, line 22, to delete "Commonwealth's" and to insert in lieu thereof "County".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 4	Representative Crenshaw
HB 12	Representatives C. Belcher, Burch, L. Clark, Gray, Hoffman, Horlander, Johns, Jordan, Marzian, Palumbo, Riggs, Stein, Stumbo, Wayne, Webb, Westrom
HB 15	Representative Marcotte
HB 23	Representative Bowling
HB 38	Representatives Ratliff, Stewart
HB 52	Representative P. Clark
HB 144	Representative Jenkins
HB 166	Representative Nunn
HB 168	Representative Nunn
HB 174	Representatives Johns, Riggs
HB 176	Representatives Anderson, Moberly, Wilkey
HB 179	Representatives Anderson, L. Belcher, D. Butler, D. D. Butler, Childers, Coleman, Crimm, Gray, Hoover, Johns, Rader, Stewart, Thompson, J. Turner, T. Turner, Upchurch
HB 200	Representative Colter
HB 202	Representative Jenkins
HB 213	Representative Alexander
HB 222	Representative Bratcher
HB 250	Representatives D. Butler, Tapp
HB 255	Representatives Bruce, Vincent, Walton
HB 267	Representatives Cornett, Stein
HB 268	Representative L. Belcher

HB 279 Representative Reinhardt
HB 280 Representatives Graham, Wilkey
HCR 27 Representative Gooch

The following members have filed requests to have their names withdrawn as co-sponsors of a Bill under the rules previously suspended:

HB 101 Representatives Draud, Fischer

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 7, 2000.

On the roll call the vote was **Yeas 81**--R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cherry, L. Clark, P. Clark, Coleman, Collins, Colter, Cornett, Crenshaw, Crimm, Damron, DeWeese, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, McKee, Miller, Moberly, Napier, Nesler, Palmer, Palumbo, Polston, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Thompson, Treesh, T. Turner, Upchurch, Vincent, Wayne, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 6**--Crall, Heleringer, Hoover, Nunn, Stewart, Walton.

The motion to adjourn was adopted.

JANUARY 7, 2000
FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rev. David Hinson, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Alexander, Geveden and Stein.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 6, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 33, by Representatives Richards, Stumbo, L. Clark, Barrows, and Callahan: A RESOLUTION adopting Rules of Procedure to govern the 2000 Regular Session of the House of Representatives.

Representative Stumbo moved the adoption of **HR 33**.

Representative Ford stated that copies of **HR 33** were not before the members.

Representative Stumbo moved that the motion to adopt **HR 33** be withdrawn. Agreed.

Introduction of Bills and Resolutions

HB 281, by Representative Marzian: AN ACT relating to registered nurse first assistants.

HB 282, by Representatives Miller, D. Butler, Graham, L. Clark, Horlander, Crall, Jenkins, Jordan, Bratcher, Crimm, P. Clark, and Riggs: AN ACT relating to special YMCA of Greater Louisville license plates.

HB 283, by Representatives Riggs, Cherry, L. Clark, and Bratcher: AN ACT relating to the Kentucky Commission on Military Affairs.

HB 284, by Representatives Miller, D. Butler, Graham, L. Clark, Siler, Horlander, Colter, Riggs, Branham, Hoffman, L. Belcher, Thompson, and Draud: AN ACT relating to eminent domain by boards of education.

HB 285, by Representatives Miller, D. Butler, Graham, McKee, L. Clark, Siler, Horlander, Wayne, Colter, Riggs, Branham, Hoffman, L. Belcher, Thompson, R. Adams, Collins, Walton, and Draud: AN ACT relating to school principals.

HB 286, by Representative Yonts: AN ACT relating to revenue and taxation.

HB 287, by Representatives A. Arnold and Napier: AN ACT relating to economic development.

HB 288, by Representatives A. Arnold, Thomas, Worthington, McKee, R. Adams, P. Clark, Simpson, Sims, Napier, Treesh, Geveden, Palmer, Rader, Barrows, C. Belcher, and Riggs: AN ACT relating to elections and making an appropriation therefor.

HB 289, by Representative Reinhardt: AN ACT relating to child support.

HCR 34, by Representatives R. Adams, Horlander, D.D. Butler and Scott: A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife Conservation to conduct three meetings and to report its findings.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 270, HB 271, HB 272, HB 278**

Education: **HB 279**

Health and Welfare: **HB 274**

Licensing and Occupations: **HB 273**

Local Government: **HB 269, HB 275**

Natural Resources and Environment: **HB 277**

State Government: **HB 276, HB 280, HCR 28, HCR 29, HCR 30, HCR 32**

Report of Committees

The Committee on Local Government reported **HB 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to the area development districts' boards of directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.060 is amended to read as follows:

There shall be in each area development district a board of directors. The composition of the board and the terms and appointments of its members in each district shall be specified by administrative regulation promulgated by the Department for Local Government in accordance with KRS Chapter 13A. The designee of a mayor or county judge/executive shall be a member of the designator's respective legislative body or their staff. Other persons who are not elected officials or members of their staffs~~staff~~ may be designated as representatives~~a representative~~ with the consent of that body. The Department for Local Government in specifying the composition of the board shall conform to applicable federal requirements. No member of a board of directors of an area development district shall be held to be a public officer by reason of membership on the board.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Local Government: **HB 147**

Seniors, Military Affairs and Public Safety: **HB 76, HCR 6**

Tourism Development and Energy: **HB 43**

Appropriations and Revenue: **HB 65, HB 176**

Education: **HB 261, HB 266, HB 174**

Licensing and Occupations: **HB 273, HB 103, HB 106, HB 219**

Calendar

HB 96 and **HB 4** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report.

Report of Committees (Continued)

The Committee on Rules reported that **HB 2** and **HB 96** have been posted for passage in the Orders of the Day for January 10, 2000.

The Committee on Rules reported that the following Bill has been recommitted: **HB 4**, Appropriations and Revenue.

Orders of the Day

HB 79 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 79** be passed.

On the roll call the vote was: **Yeas 90, Nays 3.** (See January 7, 2000 roll call on **HB 79** - Appendix.)

HB 79 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 79** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 91 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 91** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 7, 2000 roll call on **HB 91** - Appendix.)

HB 91 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 91** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 93 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 93** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 7, 2000 roll call on **HB 93** - Appendix.)

HB 93 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 93** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 97 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 97** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 7, 2000 roll call on **HB 97** - Appendix.)

HB 97 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 97** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 99 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 99** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 7, 2000 roll call on **HB 99** - Appendix.)

HB 99 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 99** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees

and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills (Continued)

HB 290, by Representative Treesh: AN ACT relating to certified professional counselors.

HB 291, by Representatives Ballard, Bruce, Yonts, and Gooch: AN ACT relating to the Circuit Courts.

HB 292, by Representatives Branham, Miller, Ratliff, Haydon, J. Arnold, and Childers: AN ACT relating to public school transportation.

HB 293, by Representatives Branham, Ratliff, and Stumbo: AN ACT relating to school district finances.

HB 294, by Representative Damron: AN ACT relating to charitable gaming.

HB 295, by Representatives Weaver, Damron, Wayne, Ballard, Crall, Fischer, Allen, Worthington, McKee, Heleringer, Burch, J. Adams, Wilkey, Graham, Stumbo, Stacy, Webb, C. Belcher, Stein, Westrom, Barrows, Miller, Sims, Haydon, R. Adams, Moberly, Callahan, Lee, Anderson, L. Clark, and Hoffman: AN ACT relating to homeless veterans.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement retroactively on **HB 16**. Agreed.

Representative Stumbo moved that **HB 231** be reassigned to the Committee on Transportation. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 2	Representatives Baugh, Marcotte, Walton
HB 4	Representatives Baugh, Marcotte, Reinhardt
HB 10	Representative Crall
HB 30	Representative Reinhardt
HB 38	Representatives Gooch, Haydon, McKee, Reinhardt
HB 43	Representatives Cherry, L. Clark, Bratcher, DeWeese, Sims, Stewart, Walton, Wayne
HB 45	Representatives Allen, Bruce, Cherry, Colter, Cornett, Crimm, Heleringer, Kerr, T. Turner, Upchurch, Walton
HB 53	Representative Reinhardt
HB 57	Representatives Bowling, Colter, Graham, Rader, Tapp
HB 59	Representatives Ausmus, Fischer, Haydon, Kerr, Stewart, Walton
HB 64	Representative Reinhardt
HB 70	Representative Reinhardt
HB 71	Representative Reinhardt
HB 111	Representative Stewart
HB 115	Representatives Crimm, Rader,
HB 130	Representative Reinhardt
HB 136	Representatives Reinhardt
HB 144	Representatives Crimm, Marcotte, Walton
HB 148	Representative Tapp
HB 158	Representative Reinhardt
HB 179	Representatives Baugh, Branham, Bruce, Damron, Napier, Ratliff,

Sims, Thomas, Vincent, Westrom, Wilkey

HB 180 Representative J. Turner

HB 202 Representatives Cherry, Collins, Colter, Scott

HB 210 Representatives Cornett, Heleringer, Reinhardt, Tapp

HB 215 Representative Reinhardt

HB 220 Representative Reinhardt

HB 236 Representatives Draud, Reinhardt

HB 237 Representative Westrom

HB 249 Representative L. Clark

HB 250 Representative Miller

HB 282 Representative Weaver

HB 285 Representative Weaver

HJR 5 Representatives Cornett, Jenkins, Jordan

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., January 10, 2000.

On the roll call the vote was **Yeas 82**--R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ausmus, Ballard, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Bruce, Buckingham, D. Butler, D. D. Butler, Callahan, Cave, Childers, L. Clark, Coleman, Collins, Colter, Cornett, Cox, Crenshaw, Crimm, Damron, DeWeese, Draud, Fischer, Ford, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nunn, Palmer, Palumbo, Polston, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stumbo, Tapp, Thomas, Thompson, Treesh, T. Turner, Upchurch, Vincent, Walton, Wayne, Weaver, Westrom, Wilkey, Worthington, Yonts. **Nays 2**--Crall, Stewart.

The motion to adjourn was adopted.

JANUARY 10, 2000
FIFTH DAY LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. John Calloway, of the Pastoral Association of Shelbyville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Anderson, Collins, Lindsay, Stein, and Webb.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 7, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 33**:

HR 33, A RESOLUTION adopting Rules of Procedure to govern the 2000 Regular Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the following Rules of Procedure are adopted to govern the 2000 Regular Session of the House of Representatives:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Pledge of Allegiance.
3. Roll Call.
4. Reading and Approval of the Journal.
5. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
6. Report of Reference of Bills to Committees.
7. Report of Committees.
8. First Reading of Bills.
9. Second Reading of Bills.
10. Orders of the Day.
11. Motions, Petitions and Communications.
12. Announcements.
13. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5.Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6.Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7.Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8.Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9.Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. The effect of the previous question shall be to put an end to ~~all~~ debate on any pending amendment; to prevent the offering of additional amendments and to bring the House to an immediate vote upon ~~any~~ the measure and amendment that ~~has~~ have been called and ~~is~~ are in order. ~~Once~~ After the previous question has been ordered, and any pending amendment has been voted upon ~~before the vote upon the main question~~, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes, before the vote upon the main question.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question, nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken and the bill or resolution is in the possession of the House; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under

these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read upon the request of any member, with the concurrence of a majority of the members elected to the House, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 22A. Point of Personal Privilege. To be in order, a point of personal privilege must relate to allegations regarding the rights, reputation, or conduct of a member personally, in his or her capacity as a representative, that, if true, would incapacitate them for membership. Members who have the floor after claiming a point of personal privilege shall confine themselves to defending their own rights, reputations, or conduct, and not those of other members. Members wishing to make general comments about pending legislation, media coverage, or other matters that would be out of order if raised as a point of personal privilege shall use Motions, Petitions, and Communications.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the

duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the House shall be appointed by election during the organizational and regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of ~~the~~ ~~said~~ Committee shall have full power to act on all matters referred to ~~the~~ ~~said~~ Committee, either by these rules or by the action of the House. All bills and joint or concurrent resolutions, ~~either joint or concurrent,~~ shall, upon their introduction, be

automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction. *Simple resolutions shall be referred to the appropriate committee or the floor of the House, in accordance with Rule 65.*

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Economic Development
5. Education
6. Elections, Constitutional Amendments and Intergovernmental Affairs
7. Health and Welfare
8. Judiciary
9. Labor and Industry
10. Licensing and Occupations
11. Local Government
12. Natural Resources and Environment
13. Seniors, Military Affairs and Public Safety
14. State Government
15. Tourism Development and Energy
16. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. A chairman of a standing committee or statutory committee shall not serve as a member of the Committee on Appropriations and Revenue. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than 29 members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Small Business:** matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and

measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Economic Development: matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

5. Education: matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

6. Elections, Constitutional Amendments and Intergovernmental Affairs: matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purging of voters; regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absentee ballots; intergovernmental cooperation; relations with the federal government.

7. Health and Welfare: matters pertaining to human development, health, and welfare; delivery of health services; support of dependents; public assistance; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; aid to the blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

8. Judiciary: matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional penitentiaries; civil rights; and juvenile matters.

9. Labor and Industry: matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

10. Licensing and Occupations: matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

11. Local Government: matters pertaining to the officers, organization, government and financing of city and county

governments; city and county imposed taxes and licenses; special purpose assessment and taxing districts within a city; city revenue bond projects; city indebtedness; incorporation and classification of cities; forms of city government; county and special district debt; city and county finances and revenue; the imposition of duties and costs on cities and counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of city and county officers and employees; city and county employees' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of local government services; county roads; public road districts; city streets and sidewalks; housing projects; urban renewal and redevelopment; water districts; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; fire protection districts; police and fire departments and their retirement systems; issuance of bonds for county and special district projects; sewers; metropolitan sewer and sanitation districts; local air pollution control districts; city and county libraries; library districts; annexation of territory; public works; parks and playgrounds.

12. Natural Resources and Environment: matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

13. Seniors, Military Affairs and Public Safety: matters pertaining to senior citizens; non-public sector retirement; problems of aging; military affairs and civil defense; national guard; veterans; veterans' rights, benefits and education; veterans' nursing homes; military memorials and cemeteries; fire prevention and protection; foods, drugs and poisons; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

14. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; disaster and emergency services; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

15. Tourism Development and Energy: matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism Cabinet; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Public Service ~~Utility Regulatory Commission and Energy Regulatory Commission~~; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol. Subcommittees of the Committee on Tourism Development and Energy shall include but not be limited to the Subcommittee on Tourism and the Subcommittee on Energy.

16. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the ~~Department of Transportation~~ **Cabinet**; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee; provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the media ~~Capitol Press Corps~~ only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all

measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance, and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee. A member of the Committee on Appropriations and Revenue may, however, serve on no more than one standing subcommittee. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before a standing subcommittee.

The Committee on Committees may assign the chairman of a standing committee as an ex officio non-voting member of a standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. Conference Committees. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Conference Committee to meet a like committee from the Senate. The Conference Committee shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a conference committee report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a free conference committee, consisting of three or more members. A free conference committee shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

A conference committee or free conference committee report shall be signed by a majority from each house or it shall not be in order.

Where both majority and minority conference or free conference reports are submitted, a motion to adopt the majority report shall first be considered and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails. Once the majority or minority report is adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the House of Representatives shall consist of all House members of majority party affiliation. The Minority Caucus of the House of Representatives shall consist of all House members of minority party affiliation. The majority and minority caucuses of the House of Representatives shall be committees, other than standing committees, of the House of Representatives and General Assembly.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Enrollment Committee and a Conference Committee between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Enrollment Committee may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. ~~At [Upon the call of] standing committee[committees, the Clerk or the Chairman or ranking member of the committee]~~ may report ~~a[the] bill~~ or resolution in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Standing and Special Committee Reports. It shall require a majority of the committee membership to report a bill or resolution. The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read. Where both majority and minority reports are submitted, a motion to adopt the majority report shall first be considered, and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails.

Rule 48. Discharge Petition. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, ~~a[any]~~ member may sponsor and file with the Clerk a written request, signed by twenty-five or more members, to call the same up for consideration on the next succeeding legislative day after the filing of the request. *The effect of this petition shall be to bring before the House the question of whether the committee to which the bill has been assigned has held the bill for an unreasonable time. Upon the motion of the member sponsoring the request, and if* a majority of the members elected to the House concur *that the bill has been held an unreasonable time*, the bill shall be considered as though it had been regularly reported, and sent to the Rules Committee.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted, unless the measure is one which has been

recommitted to the same committee from which it was previously reported with a favorable expression. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills ~~may~~shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. ~~This rule does not apply to bills with a fiscal impact of more than \$20,000.]~~

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as ~~seven~~one ~~original and three~~ distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; ~~three~~three ~~copies~~copies shall be for the use of the ~~media~~media ~~press~~press and shall be given to a person designated by the ~~media~~media ~~Press Club~~Press Club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be omitted or eliminated with a single line so as not to render such words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each such section as it appears in the Kentucky Revised Statutes. The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. A member may introduce bills and resolutions by filing them with the House Clerk on the floor or in the Clerk's office at any time the same is open. The member filing the bill or resolution shall be the primary sponsor of the bill or resolution, and with the sponsor's permission, one member may sign the bill as primary co-sponsor. Other members may co-sponsor the bill or resolution only with the sponsor's permission and by filing the proper papers with the Clerk. A co-sponsor may withdraw co-sponsorship of the bill or resolution with or without the sponsor's permission by filing the proper papers with the Clerk. Bills and resolutions filed after the House has concluded the Introduction and Reading of New Bills, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The House Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Statement. A sponsor of a bill which, if enacted, would affect the revenues or expenditures of state government generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments through the imposition of a local mandate; constitute a mandated health benefit; or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility. Any member proposing an amendment which relates to fiscal matters herein described may cause a fiscal statement to be prepared. A fiscal statement shall be considered a public document upon introduction of the bill or amendment for which it was prepared. The chairman of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to posting. The chairman or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill, or amendment thereof, prior to final committee action. Members may require, by majority vote, that a fiscal statement be attached to any bill or amendment on the Orders of the Day relating to fiscal matters herein described. In such instance, the fiscal statement shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 53. Analysis of Administrative Regulation Promulgation Authority. The sponsor of a bill which contains the authority for any agency, board, or political subdivision of state government to promulgate administrative regulations may at any time by request cause the staff of the Legislative Research Commission to prepare an analysis of such administrative regulation promulgation authority. The analysis shall include a summary of the measure, identification of governmental entities authorized to promulgate administrative regulations, and identification of subject matter for which administrative regulations may be promulgated. Any member proposing an amendment which relates to administrative regulation promulgation authority herein described may cause such an analysis to be prepared. An analysis shall be considered a public document upon introduction of the bill or amendment for which it was prepared. The chairman of the committee to which a bill has been referred may require that the analysis be attached to the bill prior to posting. The chairman or a majority of the committee to which a bill has been referred may

require that the analysis be attached to the bill, or amendment thereof, prior to final committee action. Members may require, by majority vote, that an analysis be attached to any bill or amendment on the Orders of the Day relating to administrative regulation promulgation authority herein described. In such instance, the analysis shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 54. Retention of Administrative Regulation Promulgation Authority Analyses. The Director of the Legislative Research Commission shall cause analyses prepared pursuant to Rule 53 to be filed for informational purposes with the Administrative Regulations Compiler of the Legislative Research Commission.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it shall be referred to the Rules Committee. In these instances, the Clerk shall distribute copies of the bill and its proposed amendment to each member of the Rules Committee. The Rules Committee may post these bills to the Orders of the Day for consideration of the amendment, and final passage, giving precedence to these bills over all other matters posted. When bills with amendments for concurrence are reached in the Orders of the Day, the Speaker shall first put the question of concurrence in the amendment, whereupon if such is favorable, the bill shall be put immediately upon its final passage. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The

Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their ~~first~~^{second} reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, or a Senate bill has been amended in the House, but the Senate refuses to concur, and the House recedes from its amendment, the bill shall immediately be placed upon its passage.

Rule 61. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. An amendment prepared for one member but signed by another shall be considered the amendment of the member signing the amendment. All amendments shall give the proper page and line of the printed bill. ~~An original and six~~^{Three} copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a bill under consideration containing the substantial text of the language of any other bill introduced during the session shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of any other bill introduced during the session, the Speaker shall rule thereon, subject to appeal to the House.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill.

A proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

A proposal to amend the Constitution of Kentucky shall be introduced as a bill, and no such proposal shall be in order if it is offered as an amendment to any bill.

If a proposed floor amendment to a branch budget bill will result, if adopted, in a loss of revenues or an increase in expenditures for a budget unit, the amendment shall specify by budget unit the source of funds that will offset the loss of revenues or specify the budget unit or other source of funds that will support the increased expenditures. If a budget unit or other source of funds is specified, the amendment shall include all necessary language to effect the changes.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments

proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll such bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each are in the exact form as finally passed prior to such delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. A simple resolution expressing the will of the House shall upon its introduction be automatically referred to the Committee on Committees, which may refer it to the floor if it is honorary, benevolent, and does not direct further action; otherwise, it shall be referred to a standing committee. Simple resolutions referred to a standing committee may be considered for adoption only after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. *A resolution shall not be accepted for introduction if offered in lieu of a legislative citation.* No resolution shall be considered unless it shall have been distributed to all members. All resolutions recommending a study by an interim committee, *task force, or special committee of the Legislative Research Commission* shall include *the following language: "Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date."* ~~[an approximate cost of the proposed study.]~~ All resolutions recommending ~~[or requiring]~~ a study, or which recommend ~~creation of~~ *or create* a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each ~~[such]~~ citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications."

~~[A resolution shall not be accepted for introduction if offered in lieu of a legislative citation.]~~

VOTING

Rule 67. Roll Call. Any member, with a second, may require a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 68. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as

registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 71. Adjournment Extended During Roll Call. When the roll is being called in taking a ye and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said ye and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide news media ~~newspaper~~ correspondents ~~designated in writing by the daily newspapers or press service they represent,~~ shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol and the third and fourth floors of the Capitol Annex.

Rule 74. Restrictions. For purposes of this rule, "material" shall mean any letter, report, writing, article, booklet, pamphlet, image, photograph, object, or any other item, including any physical object or electronic transmission containing audio, video, or electronic communication, which is requested to ~~printed material shall~~ be placed upon either the desk of a member on the House floor or in a member's office in the Annex. This material shall not be distributed ~~unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or~~ the party interested in the distribution of the material is clearly and physically identified on the material to be distributed. All this ~~such articles, booklets, pamphlets or any other printed~~ material shall conform to accepted public taste, ~~and~~ shall contain no matter appealing to prurient interest or without redeeming social value, and shall uphold the dignity of the legislative process. Material ~~Documents~~ originating from the general public shall be delivered to the administrative offices of the Legislative Research Commission or the Clerk of the House and shall upon direction of the Clerk, after inspection, be placed on the members' desk in the Capitol Annex provided the following conditions are met:

(1) Unless 100 copies are provided, all material ~~each document~~ should be individually addressed to each member expected to receive a copy;

(2) If several pages or items are to be provided to each member, they should be securely fastened or placed together in an envelope; and

(3) Sufficient copies of all material should be provided; staff will not make additional copies of material.

Material ~~Documents~~ that may be distributed by the Clerk in the House Chamber is ~~are~~ restricted to official communications ~~documents~~ relating to pending legislation or the operation of the House, material ~~documents~~ sent by a member clearly identified on the face of the material ~~document~~ or its attachments to any other member, or other material ~~documents~~.

~~documents]~~ as designated by the Speaker's Office. The Sergeant-at-Arms shall be charged with the duty of ~~ensuring~~~~inspecting~~~~such material and seeing~~ that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material distributed by unauthorized individuals shall be collected from the members' desks and treated as litter, and any material submitted but not distributed that is unclaimed after one week will be discarded. Material which is received via e-mail or received on diskette with a request for distribution electronically by LRC staff shall be refused or returned to the sender. Nothing in this rule restricts the right of any person to communicate directly with any member, either electronically or through the United States mail.

RULES

Rule 75. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

Representative Ford moved that **HR 33** be passed over until January 11, 2000.

On the roll call the vote was: **Yeas 43, Nays 50.** (See January 10, 2000 roll call that **HR 33** be passed over until January 11, 2000-Appendix.)

The motion that **HR 33** be passed over until January 11, 2000, was rejected.

Representative Ford moved that the rules be suspended to act on Floor Amendment No. 2 to **HR 33**.

The motion to suspend the rules to act upon Floor Amendment No. 2 to **HR 33** was rejected.

On the roll call the vote was: **Yeas 57, Nays 34.** (See January 10, 2000 roll call on **HR 33**-Appendix.)

HR 33 was adopted.

Introduction of Bills

HB 296, by Representative Westrom: AN ACT relating to juvenile justice.

HB 297, by Representative Westrom: AN ACT relating to juvenile justice.

HB 298, by Representatives Crall, Feeley, Weaver, Nunn, Treesh, and Kerr: AN ACT relating to elections.

HB 299, by Representative Cox: AN ACT relating to public school instruction.

HB 300, by Representative Damron: AN ACT relating to insurance fraud.

HB 301, by Representative Simpson: AN ACT relating to fire chiefs and assistant chiefs in cities of the second class.

HB 302, by Representative Simpson: AN ACT relating to city civil service.

HB 303, by Representatives Bruce and J. Adams: AN ACT relating to representative districts and declaring an emergency.

HB 304, by Representatives Marzian and Nunn: AN ACT relating to health insurance.

HB 305, by Representative Marzian: AN ACT relating to the provision of health care services in schools.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 286**

Economic Development: **HB 287**

Education: **HB 284, HB 285, HB 292, HB 293**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 288, HB 294**

Health and Welfare: **HB 281**

Judiciary: **HB 289, HB 291**

Licensing and Occupations: **HB 290**

Natural Resources and Environment: **HCR 34**

Seniors, Military Affairs and Public Safety: **HB 283, HB 295**

Transportation: **HB 282**

Posting of Bills for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 3, HB 9, HB 18, HB 50, HB 73, HB 107, HB 162**

Calendar

HB 16 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 16** has been posted for passage in the Orders of the Day for January 11, 2000.

Orders of the Day

HB 96 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 96** be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See January 10, 2000 roll call on **HB 96** - Appendix.)

HB 96 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 96** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills (Continued)

HB 306, by Representatives Fischer, Reinhardt, Draud, Kerr, Walton, Simpson, and Callahan: AN ACT relating to vehicle emissions testing programs.

HB 307, by Representative Feeley: AN ACT relating to public utilities.

HB 308, by Representative Feeley: AN ACT relating to public utilities.

Posting of Bills for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 155**

Health and Welfare: **HB 268**

Labor and Industry: **HB 232**

Natural Resources and Environment: **HB 105, HB 277**

Introduction of Bills (Continued)

HB 309, by Representatives McKee, Childers, Scott, Gooch, Branham, Colter, Hoffman, Vincent, Webb, Stacy, Worthington, Cherry, R. Adams, Sims, C. Belcher, Bowling, Napier, Crimm, Thompson, L. Belcher, and J. Adams: AN ACT relating to jail operating expenses.

HB 310, by Representative Jordan: AN ACT relating to medical licensure.

HB 311, by Representatives Jordan, Heleringer, and Marzian: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 312, by Representatives Callahan, Bratcher, Palmer, P. Clark, Draud, Reinhardt, J. Arnold, Gray, Scott, J. Adams, L. Belcher, Nunn, R. Adams, Kerr, Bruce, Bowling, and Childers: AN ACT relating to emergency medical technicians.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that **HB 267** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 49, HB 63, HB 80, HB 82, HB 83, HB 84, HB 165, HB 166, HB 168, and HB 170**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments to Resolutions:

Floor Amendment No. 1 to **HR 33**, by Representative Ford:

On page 25, line 15, by deleting "may", and by removing the brackets and strikethroughs from "shall"; and
On page 25, beginning on line 17, and continuing to the end of line 18, by removing the brackets and strikethroughs.

Floor Amendment No. 2 to **HR 33**, by Representative Ford:

On page 25, line 15, by deleting "may", and by removing the brackets and strikethroughs from "shall"; and
On page 25, line 16, after the word "first" by inserting the following new language: "thirty legislative days"; and
On page 25, line 16, by bracketing and striking through "three weeks"; and
On page 25, beginning on line 17, and continuing to the end of line 18, by removing the brackets and strikethroughs.

Floor Amendment No. 3 to **HR 33**, by Representative Ford:

On page 24, line 27, by bracketing and striking through "Rules", and on page 25, line 1, by bracketing and striking through "Committee", and

On page 24, line 27, after "sent to the", by inserting the following new language: "House Floor, where it shall receive its first reading and be placed upon the Calendar. On the next succeeding legislative day, the bill shall receive its second reading, and on the next succeeding legislative day following the second reading, it shall be posted in the Orders of the Day for final passage"

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 15:** Representative Crimm
- HB 38:** Representative L. Belcher
- HB 43:** Representatives DeWeese, Fischer
- HB 44:** Representatives Bratcher, Burch, L. Clark, P. Clark, DeWeese, Feeley,
Heleringer, Jenkins, Johns, Lee, Miller, Riggs, Wayne, Weaver
- HB 53:** Representative Draud
- HB 65:** Representative Bruce
- HB 70:** Representative Crimm
- HB 115:** Representative Riggs
- HB 119:** Representative Draud
- HB 134:** Representative Graham
- HB 137:** Representative Crimm
- HB 138:** Representative Crimm
- HB 142:** Representative L. Belcher
- HB 144:** Representative Crimm
- HB 147:** Representatives J. Adams, Bowling, Bruce, Graham, Marzian
- HB 155:** Representative Wayne
- HB 176:** Representative Marzian
- HB 177:** Representative Crimm
- HB 179:** Representative C. Belcher
- HB 180:** Representatives Jordan, Miller
- HB 220:** Representative Crimm
- HB 221:** Representative Feeley
- HB 236:** Representative L. Belcher
- HB 237:** Representative Nunn
- HB 248:** Representative Crimm
- HB 250:** Representatives J. Adams, Bruce, Moberly, Nunn, Reinhardt,
Scott, Stewart, Stumbo, J. Turner
- HB 255:** Representatives Cherry, Sims, Thomas
- HB 262:** Representative Crimm
- HB 267:** Representatives Alexander, Stewart, J. Turner
- HB 278:** Representative Graham
- HB 279:** Representative Crimm
- HB 280:** Representative Gooch
- HB 292:** Representative Childers
- HB 312:** Representative Ballard
- HJR 5:** Representative L. Belcher

HJR 14: Representatives L. Clark, Gray

Announcements

The following meetings were announced:

Health and Welfare, 8:00 a.m., January 11, 2000

Health and Welfare, upon adjournment, January 18, 2000

Seniors, Military Affairs and Public Safety, room 125, 12:00 noon, January 11, 2000

Government Review, room 125, upon adjournment

Appropriations and Revenue, 10:00 a.m., January 11, 2000

Tourism Development and Energy, January 11, 2000, 15 minutes upon adjournment

State Government, January 11, 2000, 12:00 noon

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 11, 2000.

On the roll call the vote was **Yeas 86**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Coleman, Colter, Cornett, Cox, Crenshaw, Crimm, Damron, DeWeese, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Johns, Jordan, Kerr, Lee, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nesler, Palmer, Palumbo, Polston, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stumbo, Thomas, Thompson, Treesh, T. Turner, Upchurch, Vincent, Walton, Wayne, Weaver, Westrom, Wilkey, Worthington, Yonts. **Nays 6**--Crall, Heleringer, Hoover, Nunn, Stewart, Tapp.

The motion to adjourn was adopted.

JANUARY 11, 2000
SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rev. K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 10, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introductions of Bills and Resolutions

HB 313, by Representative Gray: AN ACT relating to hazardous duty retirement.

HB 314, by Representative Heleringer: AN ACT relating to motor vehicle emission inspection programs.

HB 315, by Representatives Geveden and Treesh: AN ACT relating to domestic relations.

HB 316, by Representatives Colter, Nunn, Scott, Burch, McKee, Crimm, Yonts, Bratcher, Gooch, Jenkins, Adkins, Wilkey, J. Adams, Cave, Gray, Siler, and T. Turner: AN ACT relating to a Civil War memorial and making an appropriation therefor.

HB 317, by Representative Stumbo: AN ACT relating to reorganization.

HCR 35, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Joan N. Taylor to the Council on Postsecondary Education.

HCR 36, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Hilda Gay Legg to the Council on Postsecondary Education.

HCR 37, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Charles Layson Owen to the Council on Postsecondary Education.

HR 38, by Representative L. Belcher: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jirjis Sweis.

HJR 39, by Representative Stumbo: A JOINT RESOLUTION directing the Transportation Cabinet to name KY 114 in Floyd County the "Middle Creek National Battlefield Parkway", to name KY 404 in Floyd County the "Floyd County Civil War Highway", and to name three bridges in Floyd County in honor of Colonel James A. Garfield, Brigadier General Humphrey Marshall, and the Middle Creek National Battleground.

HR 40, by Representative Barrows: A RESOLUTION relating to adjourning the House of Representatives in loving memory and honor of Laura Jeanne Noel.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 300**

Education: **HB 299, HB 305**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 298**

Health and Welfare: **HB 296, HB 297, HB 304, HB 310, HB 312**

Judiciary: **HB 311**

Local Government: **HB 301, HB 302, HB 306, HB 309**

State Government: **HB 303**

Tourism Development and Energy: **HB 307, HB 308**

Report of Committees

The Committee on Committees has made the following assignment:

Representative Jordan appointed to Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 109, HB 115, HB 122, HB 150, HB 275**

Report of Committees

The Committee on Health and Welfare reported **HB 49, HB 51, HB 80, HB 82, HB 83, HB 84, HB 144, HB 165, HB 166, HB 168, HB 170, HB 177**, with Committee Substitute attached thereto, **HB 204**, with Committee Substitute attached thereto, and **HB 213** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 49, AN ACT related to the use of automated external defibrillators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

It is the intent of the legislature that an automated external defibrillator may be used for the purpose of saving the life of another person in cardiac arrest when used in accordance with the provisions of Section 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context requires otherwise:

- (1) "Automated external defibrillator" or "AED" means an external defibrillator capable of cardiac rhythm analysis which will charge and, with or without further operator action, deliver a shock after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia. These devices are known as fully or semiautomatic defibrillators;*
- (2) "Cardiopulmonary resuscitation" or "CPR" means a basic emergency procedure for life support, consisting of artificial respiration and manual external cardiac massage; and*
- (3) "Emergency medical service system" means the same as in KRS 211.950.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

In order to ensure public health and safety:

- (1) A person or entity who acquires an AED shall ensure that:*
 - (a) Expected AED users receive American Heart Association or American Red Cross training in CPR and AED use, or an equivalent nationally recognized course in CPR and AED use;*
 - (b) The AED is maintained and tested according to the manufacturer's operational guidelines;*
 - (c) There is medical oversight of the AED program by a physician licensed in Kentucky to ensure compliance with requirements for training, maintenance, notification, and communication with the local emergency medical services system. The physician providing oversight shall also work with the AED site to establish protocols for AED deployment and conduct a review of each use of an AED; and*
 - (d) Any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the local emergency medical services system as soon as possible and, if an entity with an AED program, reports any clinical use of the AED to the licensed physician.*
- (2) Any person or entity who acquires an AED shall notify an agent of the local emergency medical services system and the local emergency communications or vehicle dispatch center of the existence, location, and type of AED acquired.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) Any person or entity, who in good faith and without compensation, renders emergency care or treatment by the use of*

an AED shall be immune from civil liability for any personal injury as a result of the care or treatment, or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as a ordinary, reasonable prudent person would have acted under the same or similar circumstances.

- (2) The immunity from civil liability for any personal injury under subsection (1) of this section includes the licensed physician who is involved with AED site placement, the person or entity who provides the CPR and AED site placement, the person or entity who provides the CPR and AED training, and the person or entity responsible for the site where the AED is located.
- (3) The immunity from civil liability under subsection (1) of this section does not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.
- (4) The requirements of Section 3 of this Act shall not apply to any individual using an AED in an emergency setting if that individual is acting as a good Samaritan under KRS 411.148 and KRS 313.257.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 1 to 4 of this Act shall not apply to the use of an AED by:
 - (a) Physicians, podiatrists, or osteopaths licensed under KRS Chapter 311 or chiropractors licensed under KRS Chapter 312;
 - (b) Physician Assistants as defined in KRS 311.550;
 - (c) Registered nurses, practical nurses, or advanced registered nurse practitioners licensed under KRS Chapter 314;
 - (d) Dentists licensed under KRS Chapter 313; or
 - (e) Paramedics certified under KRS 311.654, or emergency medical technicians certified under KRS 211.964.
- (2) Nothing in this section shall preclude the licensing boards referred to in Subsection (1) of this section from requiring continuing education or training on the use of an AED.

HB 51, AN ACT relating to the Federal Individuals with Disabilities Education Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.672 is amended to read as follows:

Kentucky's participation in Part C of the Federal Individuals with Disabilities Education Act requires that~~Within the limitations of any available funding and subject to any appropriations related thereto,~~ an infant or toddler with a disability who is being served by the Kentucky Early Intervention System and the parent or guardian of that child shall have the following rights:

- (1) To a timely, multidisciplinary evaluation and assessment;
- (2) To appropriate early intervention services for children and families;
- (3) To refuse evaluation, assessment, or services;
- (4) To written notice before a change is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;
- (5) To written notice before a refusal of services is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;
- (6) To confidentiality of personally identifiable information, including the right of the parent or guardian to be provided written notice of, and written consent to, the exchange of information among agencies, consistent with federal and state laws;
- (7) To determine if any family member will accept or decline an early intervention service under KRS 200.650 to 200.676, in accordance with state law, without jeopardizing other early intervention services under KRS 200.650 to 200.676;
- (8) To review all records and, if appropriate, to amend records;
- (9) To bring an advocate or attorney into any and all dealings with the early intervention system; and
- (10) To administrative process and judicial review in accordance with KRS Chapter 13B to resolve complaints.

HB 80, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or

statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.

- (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:
- (a) Department for Social Insurance.
 - (b) Department for Social Services.

- (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.†
 - ~~(j) Office of Aging Services.‡~~
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky KARE Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.

- (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.

- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 2. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary;
- (2) Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental

health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:
- (a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 - (b) Licensing and regulatory functions as the secretary may delegate;
 - (c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and
 - (d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

- (7) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;
- (8) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;
- (9) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
- (10) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended, 42 U.S.C. secs. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service-provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 3, 4, 5, and 6 of this Act:

- (1) "Council" means the Alzheimer's Disease and Related Disorders Advisory Council;
- (2) "Dementia" means Alzheimer's disease and related dementia illnesses and disorders; and
- (3) "Office" means the Office on Alzheimer's Disease and Related Disorders.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The Office on Alzheimer's Disease and Related Disorders is established within the cabinet. The purpose of the office is to oversee information and resources related to policy and services affecting the sixty thousand (60,000) residents of Kentucky with dementia, and the caregivers and families of the residents.
- (2) The director of the office shall be a full-time, permanent employee and shall be responsible for the staffing and operational details of the office. A report on the start-up and implementation of the office shall be made to the Interim Joint Committee on Health and Welfare by September 30, 2000, and on a quarterly basis thereafter.
- (3) The office shall:

- (a) Enhance the quality of life for persons affected by dementia and for their caregivers;
- (b) Recommend the delivery of services in the most effective and efficient manner possible to facilitate the needs of people with dementia and their caregivers, after consultation with other agencies of state government that work with dementia-related illness;
- (c) Determine ways the Commonwealth may secure additional federal and private funding to provide additional services and programs through a coordinated effort;
- (d) Apply for any public or private funding relating to dementia that will enhance the office's abilities to perform its duties under this section;
- (e) Promote public and professional awareness and education of dementia and access to needed services and programs;
- (f) Oversee and receive reports from the Alzheimer's Disease and Related Disorders Advisory Council; and
- (g) Coordinate and oversee the implementation of the recommendations of the 1995 Governor's Task Force on Alzheimer's Disease and Related Disorders.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The Alzheimer's Disease and Related Disorders Advisory Council is created. The council shall report directly to the office.
- (2) The council shall be composed of a minimum of fifteen (15) members appointed by the Governor. Three (3) members shall represent agencies of state government dealing with dementia, three (3) shall represent local health departments, one (1) shall represent the University of Kentucky Alzheimer's Disease Research Center at the Sanders-Brown Center on Aging, at least one (1) shall be appointed from each of the chapters of the Alzheimer's Disease and Related Disease Association that serve the Commonwealth, and the remainder shall represent consumers, health-care providers, and the medical research community. Members who are not state employees shall be reimbursed for necessary and actual expenses. The council shall meet quarterly. A majority of the members shall constitute a quorum for the transaction of the council's business.
- (3) The council shall:
 - (a) Elect its own chairperson and establish other officers and subcommittees as needed to execute the duties of the council;
 - (b) Adopt bylaws and operate under its bylaws;
 - (c) Select the director of the office;
 - (d) Establish and evaluate goals and outcomes for the office that may facilitate treatment and care of persons with dementia;
 - (e) Assist with the dissemination of information about the availability of program materials, education materials, and curriculum guides; and
 - (f) Prepare a report of its activities, at least annually, for submission to the office.
- (4) The office shall provide requested personnel to assist the council in fulfilling its responsibilities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations under KRS Chapter 13A sufficient to implement Sections 3, 4, 5, and 6 of this Act.

Section 7. KRS 194A.090 is amended to read as follows:

- (1) The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public.
- (2) A Public Health Services Advisory Council is created within the cabinet.
 - (a) The council shall advise the secretary for health services, the commissioner for public health, and officials of the Commonwealth on policy matters concerning the delivery of health services, including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the cabinet to fulfill federal requirements for citizen's advisory councils associated with programs designed to provide health services and to advise the cabinet on the development and content of the state health plan.
 - (b) The council shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Six (6) members of the council shall be chosen to broadly represent public interest groups concerned with health services, recipients of health services provided by the Commonwealth, minority groups, and the general public. Thirteen (13) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital, and one (1) shall be a physician in active practice. At least one

(1) member shall be a registered sanitarian or sanitary engineer, one (1) a public health nurse, one (1) a member of the current minority advisory council, and one (1) a practicing public health physician. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that area development districts are represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the term begins for their appointed successors. No member shall serve more than two (2) consecutive terms. The chair of the council shall be appointed by the Governor. The secretary for health services and the commissioner for public health shall be nonvoting, ex officio members of the council, and the commissioner for public health shall be a staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for health services or the commissioner for public health. A majority of the appointed members shall constitute a quorum.

(3) An Institute for Aging is created within the cabinet.

(a) The institute shall advise the secretary for health services and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.

(b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for health services shall be a nonvoting, ex officio member of, staff director for, and secretary to the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for health services. A majority of the appointed members shall constitute a quorum.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

All administrative regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Institute for Aging, shall remain in effect as administrative regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

Section 9. KRS 194A.140 is amended to read as follows:

When the Public Health Services Advisory Council **or the Institute for Aging** is assigned responsibility for qualifying the Commonwealth for federal programs with representation and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create special subcommittees to these citizens' councils that meet federal requirements.

Section 10. KRS 194A.190 is amended to read as follows:

The Public Health Services Advisory Council and the Advisory Council for Medical Assistance **and the Institute for Aging** shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

Section 11. KRS 194A.200 is amended to read as follows:

The members of the Public Health Services Advisory Council **and of the Institute for Aging** shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of this citizens' council. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

Section 12. KRS 194B.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. The Office of the Secretary for Families and Children may, in addition to the secretary for families and children, include other personnel as are necessary to direct and carry out the missions and goals of the cabinet, including a deputy secretary if deemed necessary by the secretary of the cabinet and upon approval of the Governor.
- (2) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
- (3) Office of Program Support. The Office of Program Support shall be responsible for providing administrative and management support, planning, and appraisal of need services within the Cabinet for Families and Children. All personnel, fiscal, budgetary, contract monitoring, quality assurance, quality control, outcome assessment, and facility management functions of the cabinet shall be vested in the Office of Program Support. The Office of Program Support shall be headed

by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the Office of Program Support under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

- (4) Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.
- (5) Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner is under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.
- (6) Office of Family Resource and Youth Services Centers. The Office of Family Resources and Youth Services Centers shall be responsible for the administration, management, and operations of the Family Resources and Youth Services Centers Program. The Office of Family Resources and Youth Services Centers shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
- (7) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including, but not limited to, a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies; contract monitoring; and professional development and training. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
- (8) Office of Technology Services. The Office of Technology Services shall develop and maintain technology and information management systems in support of all units of the cabinet. The Office of Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director for technology services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director for technology services shall exercise authority of the Office of Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.
- ~~(9) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended by 42 U.S.C. sec. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers.]~~

Section 13. KRS 194B.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary shall utilize the ~~Institute for Aging or the~~ Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.
- (3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars (\$100), to cover the costs of annual inspections of

efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Section 14. KRS 194B.090 is amended to read as follows:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The Council for Families and Children shall be a citizen body~~[bodies]~~ within the cabinet and shall have the following structure:

(1) ~~[A Council for Families and Children is created within the cabinet.~~

~~(a)]The council shall advise the secretary for families and children, the commissioner for social insurance, the commissioner for social services, and other officials of the Commonwealth on policy matters relating to the human service needs.~~

~~(2)(b)]The council shall be composed of no more than twenty-one (21) citizen members appointed by the Governor. Members of the council shall be chosen to broadly represent public interest groups concerned with social insurance and social service programs operated by the Commonwealth, professionals involved in the delivery of human services, minority groups, the poor, the disadvantaged, recipients of human services provided by the state, and the general public. The Governor shall appoint the chair of the council. The secretary for families and children, the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council, and the commissioners for social insurance and social services shall be staff directors for, and secretaries to, the council. The council shall meet at least quarterly and on other occasions as may be necessary, on call of the secretary for families and children. A majority of appointed members shall constitute a quorum.~~

~~[(2) An Institute for Aging is created within the cabinet.~~

~~(a) The institute shall advise the secretary for families and children and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.~~

~~(b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for families and children shall be a nonvoting, ex officio member of, staff director for, and secretary to the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for families and children. A majority of the appointed members shall constitute a quorum.]~~

Section 15. KRS 194B.140 is amended to read as follows:

When the ~~[Institute for Aging and the]~~ Council for Families and Children ~~is~~are assigned a responsibility for qualifying the Commonwealth for federal programs with representations and membership formulas that conflict with ~~the~~a particular council's membership, the secretary shall have the authority to create special subcommittees to ~~this~~these citizens' body~~[bodies]~~ that meet federal requirements.

Section 16. KRS 194B.190 is amended to read as follows:

The ~~[Institute for Aging and the]~~ Council for Families and Children shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

Section 17. KRS 194B.200 is amended to read as follows:

The members of the ~~[Institute for Aging and the]~~ Council for Families and Children shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of ~~this~~these citizens' council~~[councils]~~. No member of ~~the~~a citizens' council shall be held to be a public officer by reason of membership on ~~the~~a council.

Section 18. KRS 205.179 is amended to read as follows:

The Cabinet for Health Services~~[Families and Children]~~ shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the Office of Aging Services and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 19. KRS 205.201 is amended to read as follows:

The duties of the Cabinet for Health Services~~[Families and Children]~~ shall be to:

- (1) Promote and aid in the establishment of local programs and services for the aging;
- (2) Conduct programs to educate the public as to problems of the aging;
- (3) Review existing state programs and services for the aging and to make recommendations to the Governor, to the appropriate department and agencies of the state, and to the legislature for improvements in and additions to such programs and services;
- (4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;

- (5) Conduct and encourage other organizations to conduct studies concerning the aging;
- (6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;
- (7) Provide services designed to meet the needs of the minority elderly in programs administered by the cabinet. The cabinet shall annually prepare a report identifying the special needs of the minority elderly population in the Commonwealth as compared to the elderly population at large. The report shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The report shall, at a minimum:
 - (a) Contain an overview of the health status of minority elderly Kentuckians;
 - (b) Identify specific diseases and health conditions for which the minority elderly are at greater risk than the general population;
 - (c) Identify problems experienced by the minority elderly in obtaining services from governmental agencies; and
 - (d) Identify programs at the state and local level designed to specifically meet the needs of the minority elderly;
- (8) In preparing the report required by subsection (7) of this section, the cabinet shall solicit and consider the input of individuals and organizations representing the concerns of the minority elderly population as relates to:
 - (a) Programs and services needed by the minority elderly;
 - (b) The extent to which existing programs do not meet the needs of the minority elderly;
 - (c) The accessibility of existing programs to the minority elderly;
 - (d) The availability and adequacy of information regarding existing services;
 - (e) Health problems the minority elderly experience at a higher rate than the nonminority elderly population; and
 - (f) Financial, social, and other barriers experienced by the minority elderly in obtaining services;
- (9) Conduct an outreach program that provides information to minority elderly Kentuckians about health and social problems experienced by minority elderly persons and available programs to address those problems, as identified in the report prepared pursuant to subsection (7) of this section; and
- (10) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

Section 20. KRS 205.202 is amended to read as follows:

The secretary of the Cabinet for **Health Services**~~[Families and Children]~~ shall be empowered to accept and expend gifts and grants from any source. Such moneys shall go into a trust and agency fund to be administered by the cabinet in furtherance of the purposes of the provisions of KRS 205.201 to 205.204.

Section 21. KRS 205.203 is amended to read as follows:

- (1) The secretary of the Cabinet for **Health Services**~~[Families and Children]~~ may provide, within budgetary limitations, for in-home services to the aging to include, but not necessarily limited to: homemaker services; home-help therapy services; day-care services; home-delivered meal services; transportation services; foster care services; and health services.
- (2) The cabinet is authorized to collect fees for services rendered pursuant to this section in accordance with a fee schedule adopted by the secretary for **health services**~~[families and children]~~. The fee schedule shall take into consideration the ability of the patient or client to pay for such services. Fees shall not be collected from any person who is "needy aged" as defined by KRS 205.010.
- (3) The secretary may utilize and promote available or potential community resources for the delivery of services to the aging and shall, when he deems appropriate, contract for services with local, community, private agencies, and individuals, including relatives of patients and clients, when such services would not otherwise be available without cost.
- (4) The services to the aging authorized under this section are in addition and supplementary to any services to which the aging may be entitled under any other federal, state, or local governmental law, regulation, or program.
- (5) The services to the aging authorized under this section shall be designed to meet the needs of the minority elderly as identified by the Cabinet for **Health Services**~~[Families and Children]~~ pursuant to KRS 205.201.

Section 22. KRS 205.204 is amended to read as follows:

- (1) The Cabinet for **Health Services**~~[Families and Children]~~, unless otherwise directed by an executive order of the Governor, is designated the agency of this state for the purpose of administering the Older Americans Act of 1965, Pub. L. 89-73, including all amendments thereto. In administering programs and allocating funds under the Older Americans Act, the cabinet shall design programs and allocate funds to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.
- (2) The secretary for **health services**~~[families and children]~~ may promulgate such administrative regulations as are necessary to comply with any requirement imposed or required by federal law.

Section 23. KRS 205.217 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Case manager" means an employee of the area development district or an agency under contract with the area development district who shall assist any functionally impaired person in identifying and accessing the long-term-care services most appropriate to the individual's social and medical needs.
 - (b) "Functionally impaired person" means any person who is unable to perform without assistance any of the activities of daily living including, but not limited to dressing, bathing, toileting, transferring, or feeding, or any of the instrumental activities of daily living including but not limited to meal preparation, laundry, housecleaning, budgeting, and shopping.
- (2) There shall be established within the Cabinet for Health Services~~[Families and Children]~~ a Long-Term Care Case Management Demonstration Program to consolidate and coordinate all services provided or funded by the cabinet with respect to long-term care, conducted in at least three (3) area development districts. This demonstration program shall serve as the focal point for the provision of all services provided to functionally impaired persons to assure that services are consistent with the following goals:
 - (a) That functionally impaired persons be allowed to live independently at home or with others as long as the citizen desires without requiring inappropriate or premature institutionalization;
 - (b) That services provided or funded by the cabinet promote independent living by functionally impaired persons and prevent or minimize illness or social isolation;
 - (c) That institutional services be used only as a last resort when in-home or community-based support services are not available or are not adequate to meet the needs of functionally impaired persons;
 - (d) That a single entry point for all services for functionally impaired persons be available to all persons in need of information about or access to the services; and
 - (e) That the use of informal providers of care, such as friends and relatives of functionally impaired persons, be used as long as possible before paid services are utilized.
- (3) The following programs and services shall be included in the Long-Term Care Case Management Demonstration Program:
 - (a) Hospital-based long-term-care services including dual-licensed beds, swing beds and physical rehabilitation services, skilled-nursing facility services, intermediate-care-facility services, nursing-facility services, home-health services, and home- and community-based waiver services funded by the Kentucky Medical Assistance Program;
 - (b) In-home and community-based services for elderly persons funded under the Older Americans Act (42 U.S.C. secs. 3001 et seq.) and Title XX of the Social Security Act (42 U.S.C. secs. 1397-1397f);
 - (c) Services provided under the home care program pursuant to KRS 205.460; and
 - (d) Personal-care-home services or domiciliary care funded by supplemental payments to persons receiving supplemental security income benefits pursuant to KRS 205.245.
- (4) The Long-Term Care Case Management Demonstration Program shall employ a system of case management to assure that appropriate services are provided to all persons using or applying for the services set forth in subsection (3) of this section, and that the services are consistent with the goals set forth in subsection (2) of this section. All persons applying for these services shall be assigned a case manager. The duties of the case manager shall include preparation of a general plan of care, based on the person's need for services, arranging placements or other needed services or equipment, coordination and management of the applicant through the eligibility process for these services, and reviewing each case on a periodic basis to assure the plan of care is being followed. Case management shall not include the determination of eligibility for Medicaid covered services, long-term-care facility preadmission reviews, level-of-care determinations for purposes of Medicaid reimbursement, or peer review activities. The general plan of care shall not replace a daily care plan prescribed by a physician for treatment of a person in a hospital or long-term-care facility or receiving home-health services. The general plan of care shall identify the categories of services or type of placement required and the providers of the services. Case managers shall serve as advocates for applicants for the services set forth in subsection (3) of this section, and shall interact with the existing administrative structure within the Cabinet for Health Services~~[Families and Children]~~ to meet the goals stated in subsection (2) of this section. Patients discharged from a hospital to a long-term-care facility shall receive case management services in the hospital on a timely basis or immediately after admission to a long-term-care facility. The goal of each case plan shall be the provision of services in the least restrictive setting designed to best meet the individual needs of the functionally impaired person. When persons are determined to need services to maintain independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member, or volunteers.
- (5) The cabinet, through the Long-Term Care Demonstration Program, shall provide access to information, counseling, and screening as appropriate, for persons potentially in need of long-term-care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. In administering the Long-Term Care Demonstration Program, the cabinet shall provide services to meet the needs of the minority elderly as identified by the

cabinet pursuant to KRS 205.201. The cabinet may charge a fee for providing information, counseling, and screening services based on the client's ability to pay.

- (6) The secretary for health services~~[families and children]~~ may promulgate administrative regulations necessary to implement the Long-Term Care Demonstration Program.

Section 24. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 and 205.465:

- (1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.
- (2) "Core services" means those services, including but not limited to client assessment and case management services, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.
- (3) "Cabinet" means the Cabinet for Health Services~~[Families and Children]~~.
- (4) "District" means an area development district designated pursuant to KRS 147A.050.
- (5) "Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.
- (6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall include chore services, home-delivered meals, home-health aide services, homemaker services, respite services, escort services, and home repair services.
- (7) "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.
- (8) "Home-delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is homebound by reason of illness, incapacity, or disability.
- (9) "Home-health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.
- (10) "Homemaker services" means general household activities, including but not limited to nonmedical personal care, shopping, meal preparation, and routine household care, provided by a trained homemaker when the person regularly responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.
- (11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.
- (12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

Section 25. KRS 205.900 is amended to read as follows:

As used in KRS 205.905 to 205.920:

- (1) "Cabinet" means the Cabinet for Health Services~~[Families and Children]~~.
- (2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.
- (3) "Personal care assistance services" means services which are required by an adult with a severe physical disability to achieve greater physical independence and which include, but are not limited to:
 - (a) Routine bodily functions, such as bowel or bladder care;
 - (b) Dressing;
 - (c) Housecleaning and laundry;
 - (d) Preparation and consumption of food;
 - (e) Moving in and out of bed;
 - (f) Routine bathing;
 - (g) Ambulation; and
 - (h) Any other similar activity of daily living.
- (4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically disabled adults to enable them to live as independently as possible and a majority of whose governing board are

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consumers of these services. If no qualified agency or organization exists, an agency or organization may become a qualified provider when consumers of personal care assistance services are a majority of its advisory council.

- (5) "Secretary" means the secretary of the Cabinet for Health Services~~[Families and Children]~~.
- (6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent or temporary, recurring functional loss of two (2) or more limbs.

Section 26. KRS 205.950 is amended to read as follows:

- (1) The Cabinet for Health Services shall, by administrative regulation in accordance with KRS Chapter 13A, establish health, safety, and treatment requirements for certified adult day care centers. No person, association, corporation, or other organization shall operate or maintain an adult day care center without first obtaining a certification as provided in this section.
- (2) The cabinet may issue a certification to any adult day care center meeting standards provided for under subsection (1) of this section. The cabinet may deny, revoke, suspend, or modify adult day care center certification for failure to comply with standards or when it determines the health, safety, or security of residents is in jeopardy. Actions to deny, revoke, suspend, or modify a certification may be appealed to the cabinet within thirty (30) days of receipt of notification of intent. Upon appeal, a hearing shall be conducted in accordance with KRS Chapter 13B.

Section 27. KRS 209.500 is amended to read as follows:

The Kentucky Senior Games Program is hereby created within the Office of Aging Services of the Cabinet for Health Services~~[Families and Children]~~. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.

Section 28. KRS 210.031 is amended to read as follows:

- (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.
 - (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:
 - 1. The Kentucky Association of the Deaf;
 - 2. The A.G. Bell Association;
 - 3. The Kentucky School for the Deaf Alumni Association; and
 - 4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.
 - (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.
 - (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:
 - 1. The Cabinet for Health Services, Department for Mental Health and Mental Retardation Services;
 - 2. The Cabinet for Workforce Development, Department of Vocational Rehabilitation;
 - 3. The Cabinet for Health Services~~[Families and Children]~~, Office of Aging Services;
 - 4. The Education, Arts, and Humanities Cabinet, Commission on the Deaf and Hard of Hearing;
 - 5. The Kentucky Registry of Interpreters for the Deaf; and
 - 6. A Kentucky School for the Deaf staff person involved in education.
 - (d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.
- (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.
- (3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.
- (4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

- (5) The advisory committee shall meet quarterly at a location determined by the committee chair.
- (6) (a) The advisory committee shall prepare a biennial report which:
 - 1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
 - 2. Reports the number of deaf or hard-of-hearing persons served;
 - 3. Identifies additional service needs for the deaf and hard-of-hearing; and
 - 4. Identifies a plan to address unmet service needs.
- (b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 29. KRS 216.541 is amended to read as follows:

- (1) Willful interference, as defined in KRS 216.535, with representatives of the Office of the Long-Term-Care Ombudsman in the lawful performance of official duties, as set forth in the Older Americans Act, 42 U.S.C. secs. 3001 et seq., shall be unlawful.
- (2) Retaliation and reprisals by a long-term-care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.
- (3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars (\$100) to five hundred dollars (\$500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the Office of Aging Services.
- (4) The Cabinet for Health Services~~[Families and Children]~~ shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term-Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 30. KRS 216.787 is amended to read as follows:

- (1) No agency providing services to senior citizens which are funded by the Department for Social Services of the Cabinet for Families and Children or the Office of Aging Services of the Cabinet for Health Services~~[Families and Children]~~ shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.
- (2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.
- (3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 31. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in a nursing facility or nursing pool providing staff to a nursing facility or in a position funded by the Department for Social Services of the Cabinet for Families and Children or the Office of Aging Services of the Cabinet for Health Services~~[Families and Children]~~ and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request and shall not exceed five dollars (\$5) per application.

Section 32. The following KRS section is repealed:

- 194B.180 Administrative regulations and decisions of various bodies transferred to Institute for Aging.
- 194B.550 Definitions for KRS 194B.550 to 194B.559.
- 194B.552 Office on Alzheimer's Disease and Related Disorders -- Director -- Report -- Purposes and duties.
- 194B.555 Alzheimer's Disease and Related Disorders Council -- Members -- Duties.
- 194B.559 Authority to promulgate administrative regulations.

Section 33. The General Assembly confirms Executive Order 99-80, dated January 20, 1999, to the extent it is not otherwise confirmed or superseded by this Act.

HB 82, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.135 is amended to read as follows:

- (1) The Developmental Disabilities ~~Planning~~ Council is created within the cabinet.
- (2) The Developmental Disabilities ~~Planning~~ Council is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.
- (3) The members of the Developmental Disabilities Planning Council shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) ~~twenty-four (24)~~ members ~~of whom~~

(a) Ten (10) members shall be ~~twelve (12) are~~ representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 *as amended*; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA) ~~Education of the Handicapped Act~~; the state agency that administers funds provided under the Older Americans Act of 1965 *as amended*; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; *and* the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. Department for Vocational Rehabilitation;
2. Department for the Blind;
3. Division of Exceptional Children, within the Department of Education;
4. Office of Aging Services;
5. Department for Medicaid Services;
6. Department of Public Advocacy, Protection and Advocacy Division;
7. University-affiliated programs;
8. Council on Postsecondary Education;
9. Department for Mental Health/Mental Retardation Services; and
10. Department for Public Health, Division of Adult and Child Health; ~~and local agencies, nongovernmental agencies, and private, nonprofit groups concerned with services to persons with developmental disabilities.~~

(b) ~~(a)~~ At least sixty percent (60%) ~~twelve (12)~~ of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 *as amended* and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) ~~at least four (4)~~ members shall be persons with developmental disabilities, and five (5) ~~at least four (4)~~ members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and ~~the immediate relatives or guardians of persons with mentally impairing developmental disabilities meeting the conditions listed in this subsection.~~ at least one (1) of these ~~members~~ ~~relatives or guardians~~ shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution. ~~At least one (1) member of the council shall represent and advocate for the interests and rights of disabled, newborn infants.~~

(c) ~~(b)~~ Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause, ~~except the initial appointments shall be made in the following manner: four (4) members shall be appointed for a term of three (3) years, four (4) members shall be appointed for a term of two (2) years, and four (4) members shall be appointed for a term of one (1) year.~~

(d) ~~(c)~~ The ~~planning~~ council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be

responsible for the recruitment and hiring of a new executive director.

- (4) The Developmental Disabilities ~~Planning~~ Council shall:
- (a) Develop, in consultation ~~jointly~~ with the cabinet, and implement ~~and any other agencies designated to administer or supervise the administration of~~ the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended ~~Public Law 98-527~~, including the specification of priority services required by that plan;
 - (b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives ~~this plan~~;
 - (c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities; ~~and~~
 - (d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;
 - (e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;
 - (f) Examine, not less than once every three (3) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and
 - (g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Section 2. KRS 210.775 is amended to read as follows:

- (1) There is hereby created the State Supported Living Council for services to persons with a disability and their families.
- (2)
 - (a) The State Supported Living Council shall be composed of ten (10) members. The commissioner of the Department for Mental Health and Mental Retardation Services and the executive director of the Kentucky Housing Corporation or their designees shall be ex-officio members.
 - (b) Eight (8) of the members shall be volunteers and shall be appointed by the Governor from a list of nominees in the following manner:
 - 1. Three (3) of the appointed members shall represent family members of persons with a disability. One (1) member shall be selected from each of three (3) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Association for Retarded Citizens, the Association for Persons with Severe Handicaps, and the Mental Health Coalition;
 - 2. One (1) of the appointed members shall represent family members of persons with a disability who reside in an intermediate care facility for mental retardation or developmental disabilities. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: Concerned Parents of Hazelwood, Parents and Relatives of Oakwood Facility, and Concerned Parents of Outwood;
 - 3. Two (2) of the appointed members shall be persons with a disability. They shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Campaign for Personal Attendant Care, the Kentucky Association for Retarded Citizens, the Mental Health Coalition, and the Kentucky Disabilities Coalition;
 - 4. One (1) of the appointed members shall represent professionals and providers of services to persons with a disability. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Association of Private Residential Resources and the Kentucky Association on Mental Retardation; and
 - 5. One (1) of the appointed members shall represent advocates for persons with a disability. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following entities: the Division of Protection and Advocacy and the ~~Kentucky Developmental Disabilities Planning~~ Council.
- (3) The appointed members may serve on the council for three (3) years. Members may be reappointed for a maximum of two (2) consecutive terms. The Governor shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.
- (4) The Department for Mental Health and Mental Retardation Services shall provide staff assistance to the State Supported Living Council.
- (5) The chairman of the State Supported Living Council shall be elected from among the members. A majority of the members shall constitute a quorum.

- (6) The State Supported Living Council shall meet as often as necessary but no less frequently than every other month.

Section 3. The General Assembly hereby confirms Executive Order 98-892, dated July 14, 1998, to the extent it is not otherwise confirmed or superseded by this Act.

HB 83, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.035 is amended to read as follows:

- (1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:
- (a) The following ~~eleven (11)~~ ~~ten (10)~~ state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Department for Local Government; commissioner of the Department of Housing, Buildings and Construction; secretary of the Cabinet for Economic Development; secretary of the Cabinet for Families and Children; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Cabinet for Health Services; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.
- (b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:
1. Public housing authorities;
 2. Mortgage banking industry;
 3. Manufactured housing industry;
 4. Realtors;
 5. Homebuilders;
 6. Urban nonprofit housing organizations;
 7. Rural nonprofit housing organizations;
 8. Urban advocates for the homeless;
 9. Rural advocates for the homeless;
 10. Residents of economically-diverse urban neighborhoods;
 11. Residents of economically-diverse rural neighborhoods;
 12. Rental property providers;
 13. Advocates for persons with physical disabilities;
 14. Advocates for persons with mental disabilities;
 15. The Kentucky State Building Trades Council;
 16. The Kentucky League of Cities; and
 17. The Kentucky Association of Counties.
- (c) One (1) member of the Senate and one (1) member of the House of Representatives.
- (2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed as provided by subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.
- (3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.
- (4) Any vacancy shall be filled as provided by the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.
- (5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.
- (6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.
- (7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.

- (8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.
- (9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.
- (10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 2. The General Assembly hereby confirms Executive Order 98-1013, dated July 30, 1998, to the extent it is not otherwise confirmed by this Act.

HB 84, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 98-1673, dated December 18, 1998, which abolishes the Division of Administration and Development, the Division of Facilities and Alternative Services and the Division of Individual and Clinic Providers from the Department for Medicaid Services and creates the following: 1) Division of Physical Health Programs; 2) Division of Children's Health Programs; 3) Division of Long Term Care Programs; 4) Division of Behavioral Health Programs; 5) Division of Financial Systems; 6) Division of Member and Provider Services; 7) Division of Quality Improvement; and 8) Division of Management Information Systems.

HB 144, AN ACT relating to services for persons with mental retardation and other developmental disabilities, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

- (1) Assistance and support to citizens of the Commonwealth with mental retardation and other developmental disabilities are necessary and appropriate roles of state government;**
- (2) The current system of services and supports to persons with mental retardation and other developmental disabilities suffers from a lack of program coordination, funding, controls on quality of care, and review and evaluation;**
- (3) As part of the review and evaluation, it is necessary to require:**
 - (a) Identification, development, and provision of services and supports for persons with mental retardation and other developmental disabilities using available institutional care as appropriate and integrated with community-based services designed to be inclusive, responsive to individual needs, and protective of the individual's legal rights to equal opportunity;**
 - (b) Review of current funding mechanisms to determine the best method to establish an array of community-based comprehensive services using facility-based outpatient services and supports that are available through public and private sectors including nonprofit and for-profit service providers that will allow persons with mental retardation and other developmental disabilities the opportunity to participate in community life. The review shall include consideration of the availability of residential alternatives, employment opportunities, and opportunities for participation in community-based social and recreational activities; and**
 - (c) Development of funding strategies to promote appropriate use of community-based services and supports that provide:**
 - 1. Flexibility for persons with mental retardation and other developmental disabilities;**
 - 2. Distribution of available funds among all interested service providers, including nonprofit and for-profit service providers, based on the needs of the person with mental retardation and other developmental disabilities; and**
 - 3. Efficiency and accountability to the general public;**
- (4) Sections 1 to 3 of this Act shall be construed to protect and to promote the continuing development and maintenance of the physical, mental, and social skills of persons with mental retardation and other developmental disabilities; and**
- (5) Sections 1 to 3 of this Act shall not be construed:**
 - (a) To alter any requirements or responsibilities that are mandated by any state or federal law;**

- (b) To relieve any organizational unit or administrative body of its duties under state or federal law; or
- (c) To transfer among state organizations or administrative bodies any responsibilities, powers, or duties that are mandated by state or federal law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:
 - (a) The secretary of the Cabinet for Health Services;
 - (b) The secretary of the Cabinet for Families and Children;
 - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Vocational Rehabilitation;
 - (f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;
 - (g) The director of the Developmental Disabilities Council;
 - (h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;
 - (i) Two (2) members of the Senate, appointed by the Senate President; and
 - (j) Public members, appointed by the Governor within ninety (90) days of the effective date of this Act, as follows:
 - 1. Three (3) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities;
 - 2. Three (3) persons with mental retardation or other developmental disabilities;
 - 3. Two (2) business leaders;
 - 4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and
 - 5. One (1) representative of a statewide advocacy group.The six (6) appointments made under subparagraph 1. and subparagraph 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.
 - (2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.
 - (3) Members defined in paragraphs (a) to (h) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed.
 - (4) All public members of the commission shall receive twenty-five dollars (\$25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.
- SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:
- (1) The commission created in Section 2 of this Act shall meet at least quarterly during the 2000-2001 biennium, at least biennially thereafter, or upon the call of the chair, the request of four (4) or more members, or the request of the Governor.
 - (2) The commission shall serve in an advisory capacity to accomplish the following:
 - (a) Advise the Governor and the General Assembly concerning the needs of persons with mental retardation and other developmental disabilities;
 - (b) Develop a statewide strategy to increase access to community-based services and supports for persons with mental retardation and other developmental disabilities. The strategy shall include:
 - 1. Identification of funding needs and related fiscal impact; and
 - 2. Criteria that establishes priority for services for individuals approved for slots that consider timeliness and service needs;
 - (c) Assess the need and potential utilization of specialized outpatient clinics for medical, dental, and special therapeutic services for persons with mental retardation and other developmental disabilities;
 - (d) Evaluate the effectiveness of state agencies and public and private service providers, including nonprofit and for-profit service providers in:
 - 1. Dissemination of information and education;
 - 2. Providing outcome oriented services; and

3. Efficiently utilizing available slots and resources, including blended funding streams;

- (e) Develop a recommended comprehensive ten (10) year plan for placement of qualified persons in the most integrated setting appropriate to their needs;
- (f) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of family members, persons with mental retardation and other developmental disabilities, and advocates in quality assurance efforts; and
- (g) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation for the 2002 General Assembly.
- (3) Within six (6) months after the effective date of this Act, the secretary of the Cabinet for Health Services shall present the plan to the Governor and the members of the General Assembly.
- (4) The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.
- (5) The commission shall cease to exist four (4) years after the effective date of this Act unless otherwise reauthorized by the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Supports for Community Living waiver program" means funding from the Department for Medicaid Services to serve individuals with mental retardation or other developmental disabilities who qualify for intermediate care and choose to live in a community-based setting; and
 - (b) "Slots" means the dedication of provider or financial resources for services to persons with mental retardation or other developmental disabilities.
- (2) The Department for Medicaid Services shall develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports by persons with mental retardation and other developmental disabilities participating in the Supports for Community Living waiver program.
- (3) The Department for Medicaid Services shall allocate slots to the fourteen (14) community mental health regions based on percentage of total population.
- (4) The Department for Medicaid Services shall reallocate underutilized slots to address statewide needs and shall reallocate slots in emergency situations to address unmet needs for services and supports.
- (5) Within six (6) months after the effective date of this Act, the Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.

Section 5. KRS 347.010 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

- (1) A ~~comprehensive and outcome-driven~~ ~~[complete, effective]~~ system of services and ~~supports~~ ~~[care]~~ provided to persons with developmental disabilities must be designed, coordinated, consistent, ~~and~~ ~~monitored~~ ~~[and designed]~~ to meet the self-determined needs of those persons as well as to protect their legal and human rights;
- (2) The current system of services and ~~supports~~ ~~[care]~~ for persons with developmental disabilities needs substantial improvement in order to provide an array of services including person-driven community-based services and supports ~~[which allows active treatment and habilitation];~~
- (3) It is necessary to require:
 - (a) The identification, ~~[and evaluation of, and the]~~ development, ~~[and]~~ provision, and evaluation of services and ~~supports~~ ~~[active treatment]~~ for ~~[,]~~ persons with developmental disabilities;
 - (b) Inter and intra-agency planning, development, implementation, and evaluation of services and supports that are the most community inclusive, responsive to individual needs, and that assure legal and human rights for equal opportunity ~~[Interagency development, coordinated planning and implementation of active treatment and service programs which are the least restrictive and individually appropriate for persons with developmental disabilities, while safeguarding their legal and human rights];~~
 - (c) ~~Development and provision of programs in the public and private sectors for the habilitation and active treatment of persons with developmental disabilities; and~~
 - (d) ~~Establishment of an array of~~ community-based comprehensive services and supports, provided by ~~[residential alternatives in the]~~ public and private sectors that ~~[to]~~ allow persons with developmental disabilities the right to participate in the life of the community, including residential alternatives, employment, and social and recreational activities ~~[opportunity to live in the least restrictive, individually appropriate environment]; and~~
 - (d) Funding strategies that promote the development of community-based services and supports that demonstrate:
 - 1. Flexibility for the person with developmental disabilities;

2. Distribution of available funds among all interested service providers based on the needs of the person with developmental disabilities; and

3. Efficiency and accountability to the general public.

- (4) The provisions of this chapter shall be construed to protect and promote the continuing development and maintenance of physical, mental, and social skills of persons with developmental disabilities; **and**
- (5) The provisions of this chapter shall not alter requirements and responsibilities mandated under any state or federal act, relieve any organizational unit or administrative body of its duties under ~~those[said]~~ acts, or transfer among state organizations or administrative bodies any responsibilities, powers, or duties mandated by ~~those[said]~~ acts.

Section 6. To carry out the provisions of Section 4 of this Act, there is appropriated to the Department for Mental Health and Mental Retardation Services out of the general fund the sum of \$4,021,500 for the fiscal year 2000-2001 and \$8,344,400 for the fiscal year 2001-2002. This appropriation is the state match for federal Medicaid funds. Funds not expended in fiscal year 2000-2001 may be carried over to fiscal year 2001-2002.

Section 7. Whereas the current methods of providing access to community-based services and supports to persons with mental retardation and other developmental disabilities are inefficient and ineffective; and whereas there is a fundamental need for a comprehensive evaluation of the efforts of state agencies to provide needed services; and whereas there is a need to increase access to community-based services for persons with mental retardation and other developmental disabilities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 165, AN ACT relating to kinship care for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 605.120 is amended to read as follows:

- (1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children **who might otherwise be placed in foster care or who are** placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.
- (2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.
- (3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the Legislative Research Commission comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.
- (4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms. ~~[Pilot projects may include but not be limited to kinship care]~~
- (5) **To the extent funds are available, the cabinet may establish a program for kinship care that provides financial assistance to qualified relative caregivers who accept temporary custody of a child that would otherwise be placed in foster care.**
- (6) **The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section. The administrative regulations shall include uniform conditions and requirements regarding:**
- (a) Eligibility requirements for the kinship caregiver and the child;**
- (b) Financial assistance and payment rates;**
- (c) Reimbursement to kinship caregivers of court costs and legal fees associated with obtaining legal custody or guardianship of the child;**
- (d) Support services and case management services that may be provided to the kinship caregiver or the child; and**
- (e) Any additional services and requirements that may be necessary to serve the best interests of the child.**

Section 2. KRS 610.010 is amended to read as follows:

- (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his

eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

- (a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;
 - (b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;
 - (c) Is an habitual truant from school;
 - (d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;
 - (e) Is dependent, neglected, or abused; or
 - (f) Is mentally ill.
- (2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.
 - (3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.
 - (4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.
 - (5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.
 - (6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in Section 1 of this Act, it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.
 - (7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence or the county wherein the offense was committed, as the case may be.
 - (8) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.
 - (9) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.
 - (10) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.
 - (11) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

HB 166, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.435 is amended to read as follows:

- (1) An employer or labor organization in the Commonwealth of Kentucky shall provide information to the Cabinet for Families and Children when that employer or labor organization hires an employee who resides or works in the Commonwealth, or rehires or permits the return to work of an employee who has been laid off, furloughed, separated, granted a leave without pay, or terminated from employment, unless the reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the secretary of families and children.
- (2) The employer shall provide the information within twenty (20) days of the hiring or return to work of the employee. The information shall include:
 - (a) The employee's name, address, and Social Security number; and
 - (b) The employer's name, address, and, if the employer has been assigned one, federal and state employer identification numbers.
- (3) An employer shall report the required information by submitting a copy of the employee's W-4 form or, at the option of the employer, an equivalent form provided by the Cabinet for Families and Children as prescribed by administrative regulation promulgated by the Cabinet for Families and Children in accordance with KRS Chapter 13A.
- (4) The Cabinet for Families and Children shall enter all new hire information into the database of the cabinet within five (5) business days.
- ~~(5) An employer shall not be required to report the information when the hiring, rehiring, or returning to work involves:~~
 - ~~(a) An employee to whom the employer pays wages of less than three hundred dollars (\$300) each month; or~~
 - ~~(b) An employee who is under eighteen (18) years of age.~~
- ~~(6)~~ The Cabinet for Families and Children may promulgate administrative regulations in accordance with KRS Chapter 13A if the Cabinet for Families and Children determines exceptions are needed to reduce unnecessary or burdensome reporting or are needed to facilitate cost-effective operation of the cabinet under this section.
- ~~(6)~~~~(7)~~ The Cabinet for Families and Children shall use the information collected pursuant to this section for the location of noncustodial parents, establishment, modification, and enforcement of child support and any other matter related to paternity or child support.
- ~~(7)~~~~(8)~~ If the employer fails to report as required by this section, the Cabinet for Families and Children shall give the employer written notice of the provisions of this section, including the penalty for failure to report.
- ~~(8)~~~~(9)~~ If the employer has not filed a report within twenty (20) days from the date that the written notice is sent to him, the Cabinet for Families and Children shall send a second written notice.
- ~~(9)~~~~(10)~~ If the employer fails to file a W-4 or equivalent form within twenty (20) days from the date that the second written notice is sent, or supplies a false or incomplete report, and the failure is a result of a conspiracy between the employee and the employer to prevent the proper information from being filed within twenty (20) days from the date that the second written notice is sent, the Cabinet for Families and Children shall send the employer by certified mail, return receipt request, notice of an administrative fine. The fine shall be two hundred fifty dollars (\$250) per calendar month per person for any violation occurring after the second notice has been given, and continuing until a W-4 or equivalent form is received by the Cabinet for Families and Children. No fine shall be imposed for any period of less than one (1) full calendar month.
- ~~(10)~~~~(11)~~ The employer shall have ten (10) days after receipt of the administrative fine notice to request a hearing before the Cabinet for Families and Children on whether the administrative fine was properly assessed. If a timely request for a hearing is received, the Cabinet for Families and Children shall schedule and conduct a hearing in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

HB 168, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.467 is amended to read as follows:

- (1) All support orders issued by the Cabinet for Families and Children, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.
- (2) In any case in which a support order was issued in the state ~~prior to October 1, 1994,~~ and in which a parent is required to pay court-ordered or administratively determined child support, medical support, maintenance, and medical support insurance, and wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination,

the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any, without the need for a judicial or administrative hearing.

- (3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer, without the need for a judicial or administrative hearing.
- (4) The cabinet shall advise the obligated parent that a wage withholding has commenced by sending a copy of the order to withhold at the same time that the order is sent to the employer. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will continue.
- (5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.
- (6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).
- (7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or family court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.
- (8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively ordered or judicially ordered medical support obligation.
- (9) The employer shall forward to the Cabinet for Families and Children that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.
- (10) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.
- (11) Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.
- (12) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.
- (13) The remedies provided for in this section shall also be available for applicable support orders issued in other states.
- (14) Interstate requests for withholding of earnings shall be processed by the cabinet.

HB 170, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:
 - (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - (b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - (c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of

the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

- (d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
- (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
- (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
- (g) Abandons or exploits the child;~~or~~
- (h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or

(i) Fails to make sufficient progress to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

(2) "Aggravated circumstances" means the existence of one or more of the following conditions:

- (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
- (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
- (c) The parent has sexually abused the child and has refused available treatment;
- (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
- (e) The parent has caused the child serious physical injury or emotional injury by torture or other means within the past year;

(3) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

~~(4)(3)~~ "Cabinet" means the Cabinet for Families and Children;

~~(5)(4)~~ "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

~~(6)(5)~~ "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

~~(7)(6)~~ "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

~~(8)(7)~~ "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

~~(9)(8)~~ "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

~~(10)(9)~~ "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

~~(11)(10)~~ "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

~~(12)(11)~~ "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

- ~~(13)~~~~(12)~~ "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- ~~(14)~~~~(13)~~ "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- ~~(15)~~~~(14)~~ "Deadly weapon" has the same meaning as it does in KRS 500.080;
- ~~(16)~~~~(15)~~ "Department" means the Department for Social Services;
- ~~(17)~~~~(16)~~ "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- ~~(18)~~~~(17)~~ "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;
- ~~(19)~~~~(18)~~ "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;
- ~~(20)~~~~(19)~~ "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- ~~(21)~~~~(20)~~ "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;
- ~~(22)~~~~(21)~~ "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- ~~(23)~~~~(22)~~ "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- ~~(24)~~~~(23)~~ "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- ~~(25)~~~~(24)~~ "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;
- ~~(26)~~~~(25)~~ "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;
- ~~(27)~~~~(26)~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- ~~(28)~~~~(27)~~ "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- ~~(29)~~~~(28)~~ "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- ~~(30)~~~~(29)~~ "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- ~~(31)~~~~(30)~~ "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;
- ~~(32)~~~~(31)~~ "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;
- ~~(33)~~~~(32)~~ "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury;

and is conducted at the suitable available facility closest to the child's place of residence;

- ~~(34)~~~~(33)~~ "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- ~~(35)~~~~(34)~~ ""Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- ~~(36)~~~~(35)~~ "Needs of the child" means necessary food, clothing, health, shelter, and education;~~[]~~
- ~~(37)~~~~(36)~~ "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- ~~(38)~~~~(37)~~ "Parent" means the biological or adoptive mother or father of a child;
- ~~(39)~~~~(38)~~ "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- ~~(40)~~~~(39)~~ "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- ~~(41)~~~~(40)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- ~~(42)~~~~(41)~~ "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- ~~(43)~~~~(42)~~ "Qualified mental health professional" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- ~~(44)~~~~(43)~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- ~~(45)~~~~(44)~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- ~~(46)~~~~(45)~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;
- ~~(47)~~~~(46)~~ "Secretary" means the secretary of the Cabinet for Families and Children;
- ~~(48)~~~~(47)~~ "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;
- ~~(49)~~~~(48)~~ "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- ~~(50)~~~~(49)~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- ~~(51)~~~~(50)~~ "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or

allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

~~(52)~~~~(51)~~ "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

~~(53)~~~~(52)~~ "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

~~(54)~~~~(53)~~ "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

~~(55)~~~~(54)~~ "Torture" means to inflict intense pain to the body or the mind for purposes of punishment or sadistic pleasure, or to extract information or a confession;

~~(56)~~ "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

~~(57)~~~~(55)~~ "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

~~(58)~~~~(56)~~ "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

- (a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;
- (b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;
- (c) Is an habitual truant from school;
- (d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;
- (e) Is dependent, neglected, or abused; or
- (f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

~~(7)~~ The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by Section 5 of this Act.~~but~~

~~(8)~~ If the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody

orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

~~(9)(7)~~ The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence or the county wherein the offense was committed, as the case may be.

~~(10)(8)~~ Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.

~~(11)(9)~~ Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.

~~(12)(10)~~ Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

~~(13)(11)~~ The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency~~[dispositional]~~ hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 3. KRS 610.125 is amended to read as follows:

- (1) If a child has been removed from the home and placed in the custody of the Department of Juvenile Justice or the cabinet, a judge of the District Court shall conduct a permanency~~[dispositional review]~~ hearing no later than twelve (12) months after the date the child is considered to have entered foster care, and every twelve (12) months thereafter if custody and out-of-home placement continues, to determine the future status of the child. For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty (60) days after the date on which the child is removed from the home.

The court shall address the following areas:

- (a) If parental rights have not been terminated, whether the child should be returned to the parent;
- ~~(b) Whether the child should continue in out of home care for a specified period of time;~~
- ~~(c) Whether the child should be placed for adoption; and~~
- (c) Whether the child should be placed with a permanent custodian; and**
- (d) Whether the cabinet has documented a compelling reason that it is in the best interest of the child to be placed in another planned permanent living arrangement other than those listed in this subsection**~~[special circumstances indicate that the child's needs can best be met by continuation in out of home care on a permanent or long-term basis].~~
- (2) If the cabinet or the Department of Juvenile Justice determines that reasonable efforts to reunify the child with the child's ~~parent~~~~[family]~~ will not be made, the cabinet or Department of Juvenile Justice shall file a case permanency plan as defined by KRS 620.230 or case progress report with the court that documents the reasons for not making reasonable efforts. The court shall hold a permanency~~[dispositional review]~~ hearing within thirty (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or report with the Court.
- (3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court. The court shall set a time for the hearing and notify the child's parent, foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; foster care review board member assigned to the case; attorney for the child; attorney for the parent, if any; and the Department of Juvenile Justice or the cabinet.
- (4) The Department of Juvenile Justice or the cabinet shall present evidence to the court concerning the care and progress of

the child since the last ~~permanency~~~~[dispositional]~~ hearing, including the following:

- (a) The length of time the child has been committed to the Department of Juvenile Justice or the cabinet;
 - (b) The number, location, and date for each placement during the total period of the child's commitment;
 - (c) A description of the services and assistance provided to the parent or arranged by the Department of Juvenile Justice or the cabinet since the last case permanency plan or case progress report, and the results achieved;
 - (d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;
 - (e) The familial and institutional barriers to:
 1. Returning the child to the home;
 2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and
 3. Delivery of appropriate services needed by the child;
 - (f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of sixteen (16) years;
 - (g) An evaluation of the child's current placement and services provided to the child;
 - (h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement; and
 - (i) Recommendations as to the permanency goal for the child.
- (5) The child's parent, foster parent, preadoptive parent, relative providing care to the child, attorney for the parent, attorney for the child, or court-appointed special advocate, if deemed appropriate by the court, may present any evidence relevant to the determination of a permanency goal for the child.
- (6) Upon conclusion of the hearing the court shall make a written order determining~~[finding regarding the adequacy of]~~ the permanency plan~~, the extent to which the permanency plan complies with KRS 620.230(2), and the services intended to achieve permanency]~~ for the child.
- (7) If necessary, the case may be redocketed for further review of the progress toward the implementation of the permanency plan established at the permanency hearing~~[the court finds that the permanency plan is not adequate, it shall redocket the case within sixty (60) days for further review].~~

SECTION 4. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

Reasonable efforts as defined in KRS 620.020(9) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction determines that the parent has:

- (1) Subjected the child to aggravated circumstances as defined in Section 1 of this Act;
- (2) Been convicted in a criminal proceeding of having caused or contributed to the death of another child of the parent;
- (3) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent;
- (4) Had their parental rights to another child terminated involuntarily;
- (5) Engaged in a pattern of conduct due to alcohol or other drug abuse as defined in KRS 222.005(12) for a period of not less than ninety (90) days that has rendered the parent incapable of caring for the immediate and ongoing needs of the child, and the parent has refused or failed to complete available treatment for alcohol or other drug abuse;
- (6) Mental illness as defined in KRS 202A.011(9) or mental retardation as defined in KRS 202B.010(9) or other developmental disability as defined in KRS 387.510(7) that places the child at substantial risk of physical or emotional injury even if the most appropriate and available services were provided to the parent for twelve (12) months; or
- (7) Other circumstances in existence that make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child and with the permanency plan for the child.

Section 5. KRS 620.027 is amended to read as follows:

The District Court has jurisdiction, concurrent with that of the Circuit Court, to determine matters of child custody and visitation in cases that come before the District Court where the need for a permanent~~[relative]~~ placement and custody order is established as set forth in this chapter~~[and the order is requested by the relative custodian]~~. The District Court, in making these determinations, shall utilize the provisions of KRS Chapter 403 relating to child custody and visitation.~~[In no event shall permanent custody orders be entered if the relative custodian elects to pursue approval as a provisional foster parent with the cabinet.]~~ In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interest of the child.

Section 6. KRS 625.090 is amended to read as follows:

- (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that:

- (a)
 - 1. The child has been adjudged to be an abused or neglected child, as defined in KRS 600.020(1), by a court of competent jurisdiction;
 - 2. The child is found to be an abused or neglected child, as defined in KRS 600.020(1), by the Circuit Court in this proceeding; or
 - 3. The parent has been convicted of a criminal charge relating to the physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional injury to the child named in the present termination action is likely to occur if the parental rights are not terminated; and
 - (b) Termination would be in the best interest of the child.
- (2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:
- (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
 - (b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;
 - (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;
 - (d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to any child;
 - (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
 - (f) That the parent has caused or allowed the child to be sexually abused or exploited;
 - (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
 - (h) That:
 - 1. The parent's parental rights to another child have been involuntarily terminated;
 - 2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and
 - 3. The conditions or factors which were the basis for the previous termination finding have not been corrected;
 - (i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect; or
 - (j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) of the most recent twenty-two (22) months preceding the filing of the petition to terminate parental rights.
- (3) In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:
- (a) Mental illness as defined by KRS 202A.011(9), or mental retardation as defined by KRS 202B.010(9) of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;
 - (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the family;
 - (c) If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents *unless one or more of the circumstances enumerated in Section 4 of this Act for not requiring reasonable efforts have been substantiated in a written finding by the District Court;*
 - (d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;
 - (e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and
 - (f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.
- (4) If the child has been placed with the cabinet, the parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.

- (5) If the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent the court in its discretion may determine not to terminate parental rights.
- (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision as to each parent-respondent within thirty (30) days either:
 - (a) Terminating the right of the parent; or
 - (b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

HB 177, AN ACT relating to the use of information technology in the delivery of health services, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.605 is amended to read as follows:

- (1) As used in this section:
 - (a) "Information highway" means a communication network for voice, data, and video communications technologies; and
 - (b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.
- (2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. ***These opportunities shall include, but not be limited to, the provision of telehealth as provided in KRS Chapters 205, 211, 304.17A, and 311.***
- (3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.
- (4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.
- (5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Telehealth Board is created and placed for administrative purposes under the Office of the Governor. This five (5) member board shall consist of the:***
 - (a) ***Chancellor, or a designee, of the medical school at the University of Kentucky;***
 - (b) ***Chancellor, or a designee, of the medical school at the University of Louisville;***
 - (c) ***Commissioner, or a designee, of the Department for Public Health;***
 - (d) ***Chief project director, or a designee, of Empower Kentucky; and***
 - (e) ***Governor, or a designee.***
- (2) ***The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.***
- (3) ***The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:***
 - (a) ***Establish telehealth training centers at the University of Kentucky, University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;***
 - (b) ***Develop a telehealth network, to coordinate with the training centers, of five (5) rural sites by July 15, 2001, with ten (10) additional sites by July 15, 2002, and ten (10) additional sites by July 15, 2003, for a total of twenty-five (25) rural sites;***

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall determine which training center shall be responsible for the switching and running of the telehealth network. This determination shall be made based upon the ability of the centers to provide necessary staffing and support, and the board shall enter into any contract necessary to bring about the smooth delivery of these functions.

Section 3. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the Advisory Council for Medical Assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(3) "Health professional" means a physician, physician assistant, nurse, mental health professional, or allied health professional who is licensed in Kentucky;

(4) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, telehealth, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

~~(5)(4)~~ "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

~~(6)(5)~~ "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

~~(7)(6)~~ "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(8) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health services or his designee;

~~(9)(7)~~ "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

~~(10)(8)~~ "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

~~(11)(9)~~ "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

~~(12)(10)~~ "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

~~(13)(11)~~ "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(14) "Telehealth consultation" means a medical consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:

(a) Compressed digital interactive video, audio, or data transmission;

(b) Clinical data transmission via computer imaging for teleradiology or telepathology; and

(c) Other technology that facilitates access to health care services or medical specialty expertise.

(15) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and

~~[(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;]~~

~~(16)(13)~~ "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient;

~~[(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative,~~

~~administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.]~~

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

- (1) The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation provided by a physician licensed in Kentucky.
- (2) (a) The cabinet shall require reimbursement for a telehealth consultation at the same rate as the Medicaid program reimburses for a comparable in-person consultation. A request for reimbursement shall not be denied solely because an in-person consultation between a physician and a patient did not occur.
 (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (3) A health-care facility that receives reimbursement under this section for consultations provided by a physician who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a physician is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
- (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.
- (6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:
 1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;
 2. The quality of care as a result of telehealth consultations rendered under this section; and
 3. Any other issues deemed relevant by the cabinet.
 (b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.
- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Department for Public Health may develop programs for local health departments to participate in telehealth and to seek reimbursement for services as provided for other health care providers under KRS Chapter 205 or 304.17A.

Section 6. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;
- (3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (5) "COBRA" means any of the following:
 - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
 - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
 - (c) 42 U.S.C. sec. 300bb;
- (6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:
 1. A group health plan;
 2. Health insurance coverage;

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3. Part A or Part B of Title XVIII of the Social Security Act;
 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 5. Chapter 55 of Title 10, United States Code;
 6. A medical care program of the Indian Health Service or of a tribal organization;
 7. A state health benefits risk pool;
 8. A health plan offered under Chapter 89 of Title 5, United States Code;
 9. A public health plan, as defined in regulations; or
 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).
- (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;
- (7) "Eligible individual" means an individual:
- (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;
 - (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (8) "Employer-organized association" means any of the following:
- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or
 - (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.
- Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;
- (9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;
- (10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:
- (a) Coverage only for accident, or disability income insurance, or any combination thereof;
 - (b) Coverage issued as a supplement to liability insurance;
 - (c) Liability insurance, including general liability insurance and automobile liability insurance;
 - (d) Workers' compensation or similar insurance;
 - (e) Automobile medical payment insurance;
 - (f) Credit-only insurance;
 - (g) Coverage for on-site medical clinics;
 - (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

- (i) Limited scope dental or vision benefits;
 - (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
 - (k) Such other similar, limited benefits as are specified in administrative regulations;
 - (l) Coverage only for a specified disease or illness;
 - (m) Hospital indemnity or other fixed indemnity insurance;
 - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
 - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
 - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;
- (11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;
- (14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (15) "Guaranteed acceptance program qualified individual" means an individual who:
- (a) Is not an eligible individual;
 - (b) Is not eligible for or covered by other health benefit plan coverage;
 - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
 - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
 - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:
 - 1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 - 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
 - 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;
- (17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
- (18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
 - (b) Chiropractors licensed under KRS Chapter 312;
 - (c) Dentists licensed under KRS Chapter 313;
 - (d) Optometrists licensed under KRS Chapter 320;
 - (e) Physician assistants regulated under KRS Chapter 311;
 - (f) Nurse practitioners licensed under KRS Chapter 314; and
 - (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.
- (b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:
- 1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
 - 2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.
- (c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;
- (20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;
- (21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;
- (22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (24) "Large group" means:
- (a) An employer with fifty-one (51) or more employees; or
 - (b) An affiliated group with fifty-one (51) or more eligible members;
- (25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;
- (26) "Market segment" means the portion of the market covering one (1) of the following:
- (a) Individual;
 - (b) Small group;
 - (c) Large group; or
 - (d) Association;
- (27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

- (28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- (34) "Small group" means:
 - (a) A small employer with two (2) to fifty (50) employees; or
 - (b) An affiliated group or association with two (2) to fifty (50) eligible members; ~~and~~
- (35) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- (36) "Telehealth" has the meaning provided in Section 8 of this Act.**

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation.**
- (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.**
- (2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.**
- (3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.**
- (4) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.**

Section 8. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as

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defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;
- (18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and
- (19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.
- (20) **"Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education.**

SECTION 9. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

- (1) **A treating physician who provides or facilitates the use of telehealth shall ensure:**
 - (a) **That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and**
 - (b) **That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate encryption technology as designated by the board and that conforms to applicable federal law.**
- (2) **The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:**
 - (a) **Prevent abuse and fraud through the use of telehealth services;**
 - (b) **Prevent fee-splitting through the use of telehealth services; and**
 - (b) **Utilize telehealth in the provision of medicine and in the provision of continuing medical education.**

Section 10. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:
 - (a) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;
 - (b) Prescribe the character of food and diet of the prisoners; rules for the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; and quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
 - (c) Adopt, amend, and rescind, as the department deems necessary, administrative regulations governing the

disposition of abandoned, lost, or confiscated property of prisoners; and

- (d) Cause the administrative regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.
- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) **The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.**

Section 11. To fund the initial training and rural sites for the first year of operation and to further fund an endowment beginning in the second year, there is appropriated from any amounts designated to the Tobacco Settlement Agreement Fund created in KRS 248.654 the sum of \$1,180,000 for fiscal year 2000-2001 and \$16,857,143 for fiscal year 2001-2002.

Section 12. (1) The provisions of Sections 3 to 4 of this Act shall take effect on July 15, 2001, or upon approval of any federal waivers, whichever first occurs.

(2) The provisions of Sections 6 to 7 of this Act shall take effect on July 15, 2001, and shall apply to a health benefit plan that is delivered, issued, or renewed on or after that date.

The Committee Substitute No. 1 to **HB 177** is as follows:

Committee Substitute No. 1 to **HB 177**, AN ACT relating to the use of information technology in the delivery of health services, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.605 is amended to read as follows:

- (1) As used in this section:
 - (a) "Information highway" means a communication network for voice, data, and video communications technologies; and
 - (b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.
- (2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. **These opportunities shall include, but not be limited to, the provision of telehealth as provided in KRS Chapters 205, 211, 304.17A, and 311.**
- (3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.
- (4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.
- (5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) **The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This seven (7) member board shall consist of the:**
 - (a) **Chancellor, or a designee, of the medical school at the University of Kentucky;**
 - (b) **Chancellor, or a designee, of the medical school at the University of Louisville;**
 - (c) **Commissioner, or a designee, of the Department for Public Health;**
 - (d) **Chief information officer, or a designee, of the Governor's Office for Technology; and**
 - (e) **Three (3) members at large, appointed by the Governor, who are health professionals or third parties as those**

terms are defined in Section 3 of this Act. To ensure representation of both groups, no more than two (2) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

- (2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.
- (3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Establish telehealth training centers at the University of Kentucky, University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;
 - (b) Develop a telehealth network, to coordinate with the training centers, of five (5) rural sites by July 15, 2001, with ten (10) additional sites by July 15, 2002, and ten (10) additional sites by July 15, 2003, for a total of twenty-five (25) rural sites. In addition to these rural sites, the board shall, between July 15, 2001, and July 15, 2002, identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville;
 - (c) Establish protocols and standards to be followed by the training centers and rural sites; and
 - (d) Maintain the central link for the network with the Kentucky information highway.
- (4) The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.
- (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
 - (a) Data on utilization, performance, and quality of care;
 - (b) Quality assurance measures, including monitoring systems;
 - (c) The economic impact on and benefits to participating local communities; and
 - (d) Other matters related to telehealth at the discretion of the board.
- (6) The board shall administer an endowment, which is hereby created to assist with the funding of the initial training and rural sites. Endowment principal shall not be spent or otherwise appropriated without prior legislative approval.

Section 3. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

- (1) "Council" means the Advisory Council for Medical Assistance;
- (2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;
- (3) "Health professional" means a physician, physician assistant, nurse, mental health professional, or allied health professional who is licensed in Kentucky;
- (4) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, telehealth, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;
- (5)~~(4)~~ "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;
- (6)~~(5)~~ "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;
- (7)~~(6)~~ "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;
- (8) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health services or his designee;
- (9)~~(7)~~ "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

- ~~(10)(8)~~ "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;
- ~~(11)(9)~~ "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;
- ~~(12)(10)~~ "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;
- ~~(13)(11)~~ "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;
- (14) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:**
- (a) Compressed digital interactive video, audio, or data transmission;**
- (b) Clinical data transmission via computer imaging for teleradiology or telepathology; and**
- (c) Other technology that facilitates access to health care services or medical specialty expertise.**
- (15) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and**
- ~~[(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;]~~
- ~~(16)(13)~~ "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient;
- ~~[(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.]~~

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

- (1) The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation provided by a Medicaid-participating practitioner who is licensed in Kentucky.**
- (2) (a) The cabinet shall require reimbursement for a telehealth consultation at the same rate as the Medicaid program reimburses for a comparable in-person consultation. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.**
- (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.**
- (3) A health-care facility that receives reimbursement under this section for consultations provided by a physician who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.**
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a physician is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.**
- (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.**
- (6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:**
- 1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;**
 - 2. The quality of care as a result of telehealth consultations rendered under this section; and**
 - 3. Any other issues deemed relevant by the cabinet.**
- (b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.**

- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.**

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Department for Public Health may develop programs for local health departments to participate in telehealth and to seek reimbursement for services as provided for other health care providers under KRS Chapter 205 or 304.17A.

Section 6. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;
- (3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (5) "COBRA" means any of the following:
 - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
 - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
 - (c) 42 U.S.C. sec. 300bb;
- (6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:
 1. A group health plan;
 2. Health insurance coverage;
 3. Part A or Part B of Title XVIII of the Social Security Act;
 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 5. Chapter 55 of Title 10, United States Code;
 6. A medical care program of the Indian Health Service or of a tribal organization;
 7. A state health benefits risk pool;
 8. A health plan offered under Chapter 89 of Title 5, United States Code;
 9. A public health plan, as defined in regulations; or
 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).
 (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;
- (7) "Eligible individual" means an individual:
 - (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;
 - (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (8) "Employer-organized association" means any of the following:
 - (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members

and that is not insurer-controlled; or

- (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

- (9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;
- (10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:
 - (a) Coverage only for accident, or disability income insurance, or any combination thereof;
 - (b) Coverage issued as a supplement to liability insurance;
 - (c) Liability insurance, including general liability insurance and automobile liability insurance;
 - (d) Workers' compensation or similar insurance;
 - (e) Automobile medical payment insurance;
 - (f) Credit-only insurance;
 - (g) Coverage for on-site medical clinics;
 - (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
 - (i) Limited scope dental or vision benefits;
 - (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
 - (k) Such other similar, limited benefits as are specified in administrative regulations;
 - (l) Coverage only for a specified disease or illness;
 - (m) Hospital indemnity or other fixed indemnity insurance;
 - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
 - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
 - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;
- (11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;
- (14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (15) "Guaranteed acceptance program qualified individual" means an individual who:
 - (a) Is not an eligible individual;
 - (b) Is not eligible for or covered by other health benefit plan coverage;
 - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
 - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
 - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;
- (17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
- (18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:
- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
 - (b) Chiropractors licensed under KRS Chapter 312;
 - (c) Dentists licensed under KRS Chapter 313;
 - (d) Optometrists licensed under KRS Chapter 320;
 - (e) Physician assistants regulated under KRS Chapter 311;
 - (f) Nurse practitioners licensed under KRS Chapter 314; and
 - (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.
- (b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:
1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
 2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.
- (c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedrich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;
- (20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;
- (21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

- (22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (24) "Large group" means:
 - (a) An employer with fifty-one (51) or more employees; or
 - (b) An affiliated group with fifty-one (51) or more eligible members;
- (25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;
- (26) "Market segment" means the portion of the market covering one (1) of the following:
 - (a) Individual;
 - (b) Small group;
 - (c) Large group; or
 - (d) Association;
- (27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- (34) "Small group" means:
 - (a) A small employer with two (2) to fifty (50) employees; or
 - (b) An affiliated group or association with two (2) to fifty (50) eligible members; ~~and~~
- (35) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- (36) "Telehealth" has the meaning provided in Section 8 of this Act.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation.
- (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.
- (3) Payment made under this section may be consistent with any provider network arrangements that have been

established for the health benefit plan.

- (4) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.**

Section 8. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;
- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;
- (18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and
- (19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

- (20) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education.

SECTION 9. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

- (1) A treating physician who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of medicine and in the provision of continuing medical education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

- (1) A treating dietitian or nutritionist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of dietitian and nutrition services and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 11. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

- (1) A treating chiropractor who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of chiropractic services and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) A treating dentist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of dentistry and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 13. A NEW SECTION OF KRS CHAPTER 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

- (1) A treating nurse who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of nursing and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 14. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

- (1) A treating respiratory care practitioner who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of respiratory care services and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 15. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) A treating pharmacist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of medicine and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical

data, and continuing education.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

- (1) A treating psychologist who provides or facilitates the use of telehealth shall ensure:

 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

 - (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of psychology and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

- (1) A treating occupational therapist who provides or facilitates the use of telehealth shall ensure:

 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

 - (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of occupational therapy and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 18. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

- (1) A treating optometrist who provides or facilitates the use of telehealth shall ensure:

 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

 - (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of optometry and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 19. A NEW SECTION OF KRS CHAPTER 326 IS CREATED TO READ AS FOLLOWS:

- (1) A treating ophthalmic dispenser who provides or facilitates the use of telehealth shall ensure:

 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and

technology as designated by the board and that conforms to applicable federal law.

- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of ophthalmic dispensing and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 20. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

- (1) A treating physical therapist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of physical therapy and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 21. A NEW SECTION OF KRS CHAPTER 334 IS CREATED TO READ AS FOLLOWS:

- (1) A treating specialist in hearing instruments who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the practice of fitting hearing instruments and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 22. A NEW SECTION OF KRS 335.010 TO 335.160 IS CREATED TO READ AS FOLLOWS:

- (1) A treating social worker who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of social work and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver

health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 23. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

- (1) A treating marriage and family therapist who provides or facilitates the use of telehealth shall ensure:
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
 - (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of marriage and family therapy and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 24. A NEW SECTION OF KRS 335.500 TO 335.599 IS CREATED TO READ AS FOLLOWS:

- (1) A treating professional counselor who provides or facilitates the use of telehealth shall ensure:
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
 - (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of professional counseling and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 25. A NEW SECTION OF KRS 335.600 TO 335.699 IS CREATED TO READ AS FOLLOWS:

- (1) A treating certified fee-based pastoral counselor who provides or facilitates the use of telehealth shall ensure:
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
 - (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of fee-based pastoral counseling and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 26. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) A treating speech-language pathologist or audiologist who provides or facilitates the use of telehealth shall ensure:
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other

applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of speech-language pathology or audiology and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

Section 27. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:
- (a) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their department and conduct;
 - (b) Prescribe the character of food and diet of the prisoners; rules for the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; and quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
 - (c) Adopt, amend, and rescind, as the department deems necessary, administrative regulations governing the disposition of abandoned, lost, or confiscated property of prisoners; and
 - (d) Cause the administrative regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.
- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 28. To fund the initial training and rural sites for the first and second years of operation and to further fund an endowment beginning in the second year, there is appropriated from any amounts designated to the Tobacco Settlement Agreement Fund created in KRS 248.654 the sum of \$1,180,000 for fiscal year 2000-2001 and \$1,286,000 for fiscal year 2001-2002, with an additional \$21,000,000 in fiscal year 2001-2002 to fund the endowment.

Section 29. (1) The provisions of Sections 3 to 4 of this Act shall take effect on July 15, 2001, or upon approval of any federal waivers, whichever first occurs.

(2) The provisions of Sections 6 to 7 of this Act shall take effect on July 15, 2001, and shall apply to a health benefit plan that is delivered, issued, or renewed on or after that date.

HB 204, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.040 is amended to read as follows:

- (1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall ~~immediately~~~~forthwith~~ notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police; and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
- (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support.
- (c) The cabinet shall, ~~investigate the matter immediately and~~ within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action ~~that~~~~which~~ has been taken on the ~~investigation~~~~matter~~.
- (d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial

control or supervision, the cabinet shall ~~immediately~~~~[forthwith]~~ notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

- (2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall ~~immediately~~~~[forthwith]~~ notify the cabinet or its designated representative.
- (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support.
- (c) The cabinet~~[shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but]~~ need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney off~~[such]~~ reports made under this subsection.
- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall ~~immediately~~~~[forthwith]~~ notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and the law enforcement agency or prosecutor~~[they]~~ shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.
- ~~(4)~~~~(3)~~ School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- ~~(5)~~~~(4)~~(a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- ~~(6)~~~~(5)~~(a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include, but ~~shall~~~~[is]~~ not be limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members~~[,]~~ and anyone invited by the multidisciplinary team to participate in a meeting~~[,]~~ shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members~~[,]~~ and others attending meetings~~[,]~~ shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Section 2. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600; or
 - (g) Those persons so authorized by court order.
- (5) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:
 - (a) To law enforcement officials that have a legitimate interest in the case;
 - (b) To the agency designated by the cabinet to investigate or assess the report; or
 - (c) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report. ~~(The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case).~~
- (6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these[such] reports. These[such] photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in

any subsequent judicial proceedings. The person performing the diagnostic procedures or taking~~[such]~~ photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

The Committee Substitute No. 1 to **HB 204** is as follows:

Committee Substitute No. 1 to **HB 204**, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.040 is amended to read as follows:

- (1)
 - (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately~~[forthwith]~~ notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
 - (b) *Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.*
 - (c) The cabinet shall, ~~[investigate the matter immediately and]~~ within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action ~~that~~~~[which]~~ has been taken on the investigation~~[matter]~~.
 - (d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately~~[forthwith]~~ notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2)
 - (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately~~[forthwith]~~ notify the cabinet or its designated representative.
 - (b) *Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.*
 - (c) The cabinet ~~[shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but]~~ need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of ~~[such]~~ reports made under this subsection.
- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately~~[forthwith]~~ notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and the law enforcement agency or prosecutor~~[they]~~ shall investigate the matter. The cabinet or its designated representative shall~~[may]~~ participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.
- ~~(4)~~~~(3)~~ School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- ~~(5)~~~~(4)~~
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
 - (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
 - (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or

supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- ~~(6)(5)~~(a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include, but ~~shall be~~ not ~~be~~ limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members~~{} and~~ anyone invited by the multidisciplinary team to participate in a meeting~~{} shall~~ shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members~~{} and~~ others attending meetings~~{} shall~~ shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Section 2. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

- (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600; or
 - (g) Those persons so authorized by court order.
- (5) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:
- (a) To law enforcement officials that have a legitimate interest in the case;
 - (b) To the agency designated by the cabinet to investigate or assess the report;
 - (c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or
 - (d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report~~[The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case].~~
- (6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of ~~these[such]~~ reports. ~~These[Such]~~ photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking ~~[such]~~ photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

HB 213, AN ACT relating to the personal care assistance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.925 is amended to read as follows:

The cabinet shall implement the provisions of KRS 205.900 to 205.920 on a statewide basis and shall serve at least one thousand two hundred ~~(1,200)[(200)]~~ severely physically disabled adults.

The Committee on Appropriations and Revenue reported **HB 65** and **HB 176**, with Committee Substitute No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to income tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Secretary" means the secretary of revenue;
- (2) "Cabinet" means the Revenue Cabinet;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1997, that would otherwise terminate, and as modified by KRS 141.0101;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax

actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
 - (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
 - (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
 - (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;
 - (i)
 - 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 - 2. The "applicable amount" shall be:
 - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
 - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
 - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
 - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
 - 3. As used in this paragraph:
 - a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
 - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
 - (j)
 - 1.
 - a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS

136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;
- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain; and
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998~~a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement~~; and
- (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;
 - (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
 - (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
 - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
 - (f) Include the amount calculated under KRS 141.205;
 - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;~~and~~

- (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998; and**
 - (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;**
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
 - (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;
- (c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;
- (d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
- (e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
- (25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The provisions of this Act shall retroactively apply to tax years beginning after December 31, 1998.

Section 3. Whereas the filing deadline for income taxes is April 15, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 176, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Secretary" means the secretary of revenue;
- (2) "Cabinet" means the Revenue Cabinet;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ~~1999~~~~[1997]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~1999~~~~[1997]~~, that would otherwise terminate, and as modified by KRS 141.0101;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;
- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
 - (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
 - (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
 - (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;
 - (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing

plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

- a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
- b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
- c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
- d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

- a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
- b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
- c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

- (j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
- b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;
- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain; and
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;
- (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

- (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
 - (f) Include the amount calculated under KRS 141.205;
 - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and
 - (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
 - (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;
- (c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;
- (d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue

Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

- (e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
- (25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. KRS 141.042 is amended to read as follows:

- (1) For all taxable years beginning on or after July 1, 1966, every corporation subject to taxation under KRS 141.040 shall make a declaration of estimated tax if the tax imposed by KRS 141.040 for the taxable year can reasonably be expected to exceed five thousand dollars (\$5,000).
- (2) The declaration required under subsection (1) shall contain the following information:
 - (a) The amount which is estimated as the amount of tax under KRS 141.040 for the taxable year;
 - (b) The excess of the amount estimated under paragraph (a) over five thousand dollars (\$5,000), which excess for purposes of this section and KRS 141.044 and 141.205 shall be considered the estimated tax for the taxable year;
 - (c) Such other information as the cabinet by forms or regulations may prescribe.
- (3) The declaration required under subsection (1) shall be filed with the cabinet on or before June 15 of the taxable year, except that if the requirements of subsection (1) are first met:
 - (a) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year;
 - (b) After September 1 of the taxable year, the declaration shall be filed on or before December 15 of the taxable year.
- (4) A corporation may make amendments of a declaration filed during the taxable year in accordance with regulations prescribed by the cabinet. An amendment of a declaration may be filed in any interval between the installment dates prescribed for that taxable year but only one (1) amendment may be filed in each such interval. If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the increase or decrease of the estimated tax by reason of such amendment. If any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid in full at the time of making such amendment.
- (5) A corporation with a taxable year of less than twelve (12) months shall make a declaration in accordance with regulations prescribed by the cabinet.
- (6) The cabinet may grant a reasonable extension of time for filing declarations and paying the estimated tax under such rules and regulations as it may prescribe. If any extension operates to postpone a payment of estimated tax, interest at the tax interest rate defined in KRS 131.010(6)~~[of eight percent (8%) per annum]~~ shall be collected.

Section 3. KRS 141.180 is amended to read as follows:

- (1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars (\$5,000) shall make to the cabinet a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.
 - (2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars (\$5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.
 - (3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000).
 - (4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars (\$5,000) or more, shall make a return.
 - (5) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars (\$5,000) or over shall make a return.
 - (6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.
 - (7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:
 - (a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section ~~6015~~~~(e)~~ of the Internal Revenue Code; or
 - (b) It is shown that the spouse would have qualified for relief under the provisions of Section ~~6015~~~~(e)~~ of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.
 - (8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.
 - (9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.
- Section 4. This Act shall apply to taxable years beginning after December 31, 1999.

The Committee Substitute No. 1 to **HB 176** is as follows:

Committee Substitute No. 1 to **HB 176**, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Secretary" means the secretary of revenue;
- (2) "Cabinet" means the Revenue Cabinet;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ~~1999~~~~(1997)~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~1999~~~~(1997)~~, that would otherwise terminate, and as modified by KRS 141.0101;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;
- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by

KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
- (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
- (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;
- (i)
 - 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 - 2. The "applicable amount" shall be:
 - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
 - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
 - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
 - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
 - 3. As used in this paragraph:
 - a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
 - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- (j)
 - 1.
 - a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
 - 2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the

taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
 - (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
 - (n) Exclude any capital gains income attributable to property taken by eminent domain; and
 - (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement;
- (11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
- (a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;
 - (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
 - (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
 - (f) Include the amount calculated under KRS 141.205;
 - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and
 - (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

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- (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
 - (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;
- (c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;
- (d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
- (e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
- (25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. KRS 141.180 is amended to read as follows:

- (1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars (\$5,000) shall make to the cabinet a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.
- (2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be

required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars (\$5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

- (3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000).
- (4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars (\$5,000) or more, shall make a return.
- (5) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars (\$5,000) or over shall make a return.
- (6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.
- (7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:
 - (a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section ~~6015~~~~(6013(e))~~ of the Internal Revenue Code; or
 - (b) It is shown that the spouse would have qualified for relief under the provisions of Section ~~6015~~~~(6013(e))~~ of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.
- (8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.
- (9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 3. This Act shall apply to taxable years beginning after December 31, 1999.

The Committee on Seniors, Military Affairs and Public Safety reported **HB 76** and **HCR 6**, with Committee Substitute No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76, AN ACT relating to alternative teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.048 is amended to read as follows:

- (1) The General Assembly hereby finds that:
 - (a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;
 2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;
 3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and
 4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.
 - (b) There are hereby established alternative certification program options as described in subsections (3) through ~~(6)~~~~(5)~~ of this section.
 - (c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.
 - (d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.
- (2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the secondary level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

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- (a) The application contains documentation of all education and work experience;
- (b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;
- (c) The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four (4) point scale from a nationally or regionally accredited postsecondary institution; and
- (d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular provisional certificate.

An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate, and subject to certificate renewal requirements the same as any other teacher with a regular provisional certificate.

- (3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:
 - (a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.
 - (b) Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.
 - (c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.
 - (d) Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.
 - (e) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.
- (4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:
 - (a) A master's degree or doctoral degree in the academic subject area for which certification is sought;
 - (b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally or nationally accredited institution of higher education; and
 - (c) Successful completion of the teacher internship requirement imposed under KRS 161.030.
- (5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.
- (6) **Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years, to a veteran for teaching at the elementary, secondary, and secondary vocational education levels with the following qualifications:**
 - (a) An honorable discharge after at least six (6) years of full-time active duty;**
 - (b) At least a bachelor's degree in the subject matter area or closely related area for which certification is sought, issued by a regionally or nationally accredited institution of higher education;**
 - (c) Either a grade point average of two and five-tenths (2.5) on a four (4) point scale for a bachelor's degree or an advanced degree; and**
 - (d) A passing score on the written exit assessment examination designated by the Education Professional Standards Board for content knowledge.**

Upon an offer of employment by a school district, the eligible veteran shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the veteran and the employing school district. During this year, the veteran shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. Upon successful completion of the internship program, the veteran shall receive a regular professional certificate.

- (7) A teacher certified under subsections (2) to ~~(6)~~~~(5)~~ of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.
- (8) Veterans who possess an honorable discharge after at least six (6) years of full-time active duty, and who have at least four (4) years of occupational experience in the area in which they seek certification as a vocational industrial education teacher, shall apply for certification under and meet the requirements of the administrative regulations promulgated by the Education Professional Standards Board.
- ~~(9)~~~~(7)~~ Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:
- (a) An out-of-state license to teach exceptional students;
 - (b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and
 - (c) Successful completion of the teacher internship requirement required under KRS 161.030.

HCR 6, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veteran's Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested that the Legislative Research Commission establish a permanent committee on Veteran's affairs; and

WHEREAS, the Legislative Research Commission created the Subcommittee on Veteran's Affairs in 1988; and each interim thereafter; and

WHEREAS, the nearly one hundred state and nationally affiliated veterans organizations representing 355,000 Kentucky Veterans have relied upon the Subcommittee on Veteran's Affairs to inform Legislators of their special concerns and needs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is requested to reestablish a Subcommittee on Veteran's Affairs to operate during the 2000 - 2001 interim and present recommendations to the Kentucky General Assembly.

Section 2. It is recommended that the subcommittee be appointed by the Legislative Research Commission.

The Committee Substitute No. 1 to **HCR 6** is as follows:

Committee Substitute No. 1 to **HCR 6, A CONCURRENT RESOLUTION** requesting the Legislative Research Commission to reestablish the Subcommittee on Veteran's Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested that the Legislative Research Commission establish a permanent committee on Veteran's affairs; and

WHEREAS, the Legislative Research Commission created the Subcommittee on Veteran's Affairs in 1988; and each interim thereafter; and

WHEREAS, the nearly one hundred state and nationally affiliated veterans organizations representing 355,000 Kentucky Veterans have relied upon the Subcommittee on Veteran's Affairs to inform Legislators of their special concerns and needs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is requested to reestablish a Subcommittee on Veteran's Affairs to operate during the 2000 - 2001 interim and present recommendations to the Kentucky General Assembly.

Section 2. It is recommended that the subcommittee be appointed by the Legislative Research Commission.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have

the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on State Government reported **HB 22**, with Committee Substitute attached thereto, **HB 78, HB 90, HB 95, HB 98, HB 110, HB 137, HB 159, HB 160, HB 182, HB 183, HB 184, HB 214, HB 215, and HB 265** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 22, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.100 is amended to read as follows:

It shall be the duty of the Legislative Research Commission to:

- (1) Maintain in the State Capitol or State Capitol Annex for the use and information of the General Assembly, a legislative reference room and working library; collect, summarize, and index information of a legislative and governmental nature relating to legislation and legislative policies and index all bills introduced in the General Assembly. Permanent office space for the Legislative Research Commission and for the director thereof and employees or subcommittees shall be provided on the third floor of the State Capitol. When the General Assembly is not in session, the Commission shall have jurisdiction over the use of the House and Senate chambers and over the allocation of all rooms used by the General Assembly while in session. The Commission may provide for such other office space as it may deem necessary.
- (2) Make or cause to be made such investigations into statute law, legislation, governmental agencies and institutions, and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and economical manner. In making such studies and investigations between the regular sessions of the General Assembly, the Commission shall give priority to those subjects requested by the General Assembly. **The Commission shall promptly consider any requests of the General Assembly by bill or resolution for the creation of task forces, committees, subcommittees, or other entities for the purpose of studying or reviewing issues or subjects. The Commission, in its sole discretion, may grant or deny the requests or assign the subject matter of the proposed study or review to an existing committee or task force, including interim joint subcommittees of the Commission.**
- (3) Afford to any member of the General Assembly or any committee of either house of the General Assembly such information and assistance as may be practicable in the preparation of bills, memorials, resolutions, amendments, alterations and changes thereto, and revisions and substitutes thereof, proposed to be introduced into the General Assembly.
- (4) The Commission, at the close of each legislative session, shall assume custody of all furniture, equipment, records, materials and supplies, and printed copies of bills in the possession of the clerks of the Senate and House. Immediately prior to the convening of the next session, the Commission shall transfer all furniture, equipment, materials, and supplies to the clerks of the respective houses. The Commission may, when the General Assembly is not in session, authorize the expenditure of funds appropriated to the General Assembly for the purchase, repair, or maintenance of furniture, equipment, materials, and supplies and contract for services needed by the General Assembly.
- (5) The Commission shall prepare and publish or contract for the preparation and publishing of a daily index and digest of the content of and legislative action on all measures introduced in the General Assembly.
- (6) After each election the Commission shall conduct a pre-session orientation conference for members of the General Assembly.
- (7) The Commission shall notify the members of the General Assembly of the reports filed with the Commission for distribution to the members of the General Assembly and of the reports and publications of the Commission which are available for the members of the General Assembly. Each member of the General Assembly shall indicate upon a form provided by the Commission which reports shall be forwarded to the member.
- (8) Conduct, while the General Assembly is not in session, any and all business of the legislative department of government, except for the passage of legislation, which could be conducted by the legislative department of government or the General Assembly if the General Assembly ~~were~~^{was} in session.
- (9) Conduct such other business and possess such other powers and duties as may be assigned or authorized by the General Assembly by statute or otherwise.

The Committee Substitute No. 1 to **HB 22** is as follows:

Committee Substitute No. 1 to **HB 22,** AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.100 is amended to read as follows:

It shall be the duty of the Legislative Research Commission to:

- (1) Maintain in the State Capitol or State Capitol Annex for the use and information of the General Assembly, a legislative reference room and working library; collect, summarize, and index information of a legislative and governmental nature relating to legislation and legislative policies and index all bills introduced in the General Assembly. Permanent office space for the Legislative Research Commission and for the director thereof and employees or subcommittees shall be provided on the third floor of the State Capitol. When the General Assembly is not in session, the Commission shall have jurisdiction over the use of the House and Senate chambers and over the allocation of all rooms used by the General Assembly while in session. The Commission may provide for such other office space as it may deem necessary.
- (2) Make or cause to be made such investigations into statute law, legislation, governmental agencies and institutions, and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and economical manner. In making such studies and investigations between the regular sessions of the General Assembly, the Commission shall give priority to those subjects requested by the General Assembly. *The Commission shall promptly consider any requests of the General Assembly by bill or resolution for the creation of task forces, committees, subcommittees, or other entities for the purpose of studying or reviewing issues or subjects. Provisions of the bill or resolution to the contrary notwithstanding, the Commission, in its sole discretion, may grant or deny the request to create an entity or alternatively assign the subject matter of the proposed study or review to an existing committee or task force, including interim joint subcommittees of the Commission.*
- (3) Afford to any member of the General Assembly or any committee of either house of the General Assembly such information and assistance as may be practicable in the preparation of bills, memorials, resolutions, amendments, alterations and changes thereto, and revisions and substitutes thereof, proposed to be introduced into the General Assembly.
- (4) The Commission, at the close of each legislative session, shall assume custody of all furniture, equipment, records, materials and supplies, and printed copies of bills in the possession of the clerks of the Senate and House. Immediately prior to the convening of the next session, the Commission shall transfer all furniture, equipment, materials, and supplies to the clerks of the respective houses. The Commission may, when the General Assembly is not in session, authorize the expenditure of funds appropriated to the General Assembly for the purchase, repair, or maintenance of furniture, equipment, materials, and supplies and contract for services needed by the General Assembly.
- (5) The Commission shall prepare and publish or contract for the preparation and publishing of a daily index and digest of the content of and legislative action on all measures introduced in the General Assembly.
- (6) After each election the Commission shall conduct a pre-session orientation conference for members of the General Assembly.
- (7) The Commission shall notify the members of the General Assembly of the reports filed with the Commission for distribution to the members of the General Assembly and of the reports and publications of the Commission which are available for the members of the General Assembly. Each member of the General Assembly shall indicate upon a form provided by the Commission which reports shall be forwarded to the member.
- (8) Conduct, while the General Assembly is not in session, any and all business of the legislative department of government, except for the passage of legislation, which could be conducted by the legislative department of government or the General Assembly if the General Assembly ~~were~~^{was} in session.
- (9) Conduct such other business and possess such other powers and duties as may be assigned or authorized by the General Assembly by statute or otherwise.

HB 78, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.510 is amended to read as follows:

- (1) There is hereby established the Kentucky Commission on Women as a separate administrative body of state government within the meaning of KRS Chapter 12.
- (2) The membership of the commission shall consist of the Lieutenant Governor, *the spouse of the Governor*, and not more than twenty-four (24) members and a chairman who shall be appointed by the Governor. The members of the commission shall serve terms of four (4) years; except that:
 - (a) Of the members initially appointed after June 17, 1978, six (6) members shall serve a term of one (1) year, six (6) a term of two (2) years, six (6) a term of three (3) years and six (6) a term of four (4) years; and
 - (b) Of the members appointed after July 15, 1998, six (6) members appointed to fill the terms expiring June 17, 1999, shall serve until January 17, 2000; six (6) members appointed to fill the terms expiring June 17, 2000, shall serve until January 17, 2001; six (6) members appointed to fill the terms expiring June 17, 2001, shall serve until January 17, 2002; and six (6) members appointed to fill the terms expiring June 17, 2002, shall serve until January

17, 2003; and subsequent appointments shall be for four (4) year terms ending on January 17. The Governor shall appoint a chairman who shall serve at the Governor's will. There shall be an executive director, who shall be appointed by the Governor, and shall be administrative head and chief executive officer of the commission. The Governor, in appointing the commission, shall attempt to insure, insofar as it may be practicable, and with due regard to the several geographic regions and socio-economic groupings of the state, that the membership is broadly representative of the women of the state. The commission shall meet at the call of the chairman, but at least twice during each calendar year; a majority of the members shall constitute a quorum for the transaction of the commission's business.

Section 2. The General Assembly confirms Executive Order 98-1377, dated October 14, 1998, to the extent it is not otherwise confirmed by this Act.

HB 90, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-324, dated March 11, 1999, which creates, abolishes, and renames several divisions within the Kentucky Employees Retirement System. The Division of Equity Assets and the Division of Fixed Assets are created and assume the functions of the Division of Investments, which is abolished. The Division of Employment Services, the Division of Retiree Services, the Division of Support Services, the Division of Membership Support, and the Division of Disabilities are created and assume the functions of the Division of Records and Employer Services and the Division of Employee Benefits, which are abolished. The Division of Data Processing is renamed the Division of Information Technology and its Imaging Branch is moved to the new Division of Support Services.

HB 95, AN ACT relating to the reorganization of the Finance and Administration Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.013 is amended to read as follows:

- (1) The office of the secretary of the Finance and Administration Cabinet shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.
- (2) The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet, subject to the provisions of KRS Chapter 12. The Office of the Secretary shall include the Office of Technology Operations, the Customer Resource Center,~~[Division of Information Resources]~~ and the Administrative Policy and Audit ~~Division [of Internal Audit]~~.
- (3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

Section 2. KRS 42.023 is amended to read as follows:

- (1) The Department for Administration of the cabinet established by KRS 42.014 shall be generally responsible for any functions and duties the secretary may assign relating, but not limited to, supervision of purchasing and store keeping, control of stores, control of personal property and disposition of surplus personal property, printing and reproductions, state forms, postal services, and technical assistance and advice to state agencies.
- (2) There shall be established in the Department for Administration a Division of Material and Procurement Services~~[Purchases]~~, a Division of Surplus Property, a Division of Printing, a Division of Risk Management, a Division of Creative Services, a Division of Occupations and Professions, and a Division of Postal Services, each of which shall be headed by a director appointed by the commissioner, subject to the approval of the Governor, and who shall be responsible to the commissioner. There may be, if needed, sections assigned to specific areas of work, responsible directly to the commissioner for administration.

Section 3. KRS 42.024 is amended to read as follows:

- (1) The Division of Material and Procurement Services~~[Purchases]~~ shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The Division of Material and Procurement Services~~[Purchases]~~ shall be responsible for the control of all state-purchased personal property.
- (2) The Division of Surplus Property shall be responsible~~[and]~~ for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus

property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.

~~(3)(2)~~ The Division of Creative Services shall provide photography, multimedia, and graphic service to state government.

~~(4)(3)~~ The secretary of the Finance and Administration Cabinet may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Surplus Property~~[Purchases]~~.

Section 4. KRS 42.065 is amended to read as follows:

- (1) An Administrative Policy and Audit Division~~[A Division of Internal Audit]~~ is established in the Office of the Secretary within the Finance and Administration Cabinet.
- (2) The Administrative Policy and Audit Division~~[of Internal Audit]~~ shall be headed by a director, appointed by the secretary of finance pursuant to KRS 12.050, and shall include other personnel employed pursuant to KRS Chapter 18A, as determined by the director of the division, with the approval of the secretary, to be necessary and desirable to carry out the division's functions.
- (3) The division may, with the approval of the secretary of finance, conduct any internal audit, investigation, or management review in the Finance and Administration Cabinet related to the secretary's duties and responsibilities as chief financial officer of the Commonwealth pursuant to KRS 42.012.
- (4) When it is necessary to complete an internal audit, investigation, or management review in the Finance and Administration Cabinet, with the written approval of the secretary of the Governor's Executive Cabinet, the division shall have access, during business hours, to all books, reports, papers, and accounts in the office or under the custody or control of any budget unit, or of any other program cabinet, department, or agency under the authority and direction of the Governor.

Section 5. KRS 42.0201 is amended to read as follows:

- (1) There is created within the Finance and Administration Cabinet the Office of the Controller. The office shall be attached to the Office of the Secretary of the Finance and Administration Cabinet for administrative and reporting purposes.
- (2) The Office of the Controller shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the accounting community.
- (3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs, assignment and tracking of actual expenditures by code, and coverage issues relating to Social Security and Medicare.
- (4) The state controller; the executive director of the Office of Financial Management and Economic Analysis, Finance and Administration Cabinet; and the state budget director designated under KRS 11.068 shall develop and maintain the Commonwealth's strategic financial management program.
- (5) There are established in the Office of the Controller the Division of Statewide Accounting Services~~[Accounts]~~ and the Division of Social Security.
 - (a) The Division of Statewide Accounting Services~~[Accounts]~~ shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the state controller. The division shall perform financial record keeping functions at the state controller's direction, and shall be responsible for:
 1. The performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes; and
 2. The state government's duties and functions relating to the county fee system for local entities.
 - (b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the state controller. The division shall be responsible for the duties of the state agency for Social Security specified in KRS 61.410 to 61.500.

Section 6. KRS 45.990 is amended to read as follows:

- (1) Any officer, agent, or employee of any budget unit who willfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to prosecution in the Franklin Circuit Court, and upon conviction shall be guilty of a violation.

- (2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244, he and his sureties shall be jointly and severally liable therefor.
- (3) Any employee of the Division of Material and Procurement Services~~[Purchases]~~, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a Class C felony.
- (4) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, to any employee of the Division of Material and Procurement Services~~[Purchases]~~ or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a Class C felony.

Section 7. KRS 45A.045 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.
 - (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.
 - (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.
 - (c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.
- (2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.
- (3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.
- (4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.
- (5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property

should be disposed of. The method for disposal shall be determined by the Division of ~~Purchases,~~ Surplus Property ~~Branch,~~ and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

- (6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.
- (7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.
- (8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.
- (9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.
- (11) For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:
 - (a) A total design-bid basis;
 - (b) A package system commonly referred to as "turnkey";
 - (c) Phase bidding commonly referred to as "fast track"; or
 - (d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

- (12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 8. KRS 45A.540 is amended to read as follows:

Every county, city, school district, and special district may purchase goods, supplies, equipment, material, and printing which meet the procurement standards for minimum recycled material content through the central stores branch of the Division of Material and Procurement Services ~~Purchases~~ in the Finance and Administration Cabinet. Counties, cities, school districts, and

special districts which purchase goods, supplies, equipment, material, and printing which meet the procurement standards established pursuant to KRS 45A.520 for minimum recycled material content shall receive a fifty percent (50%) reduction in any administrative fee the central purchasing agency is authorized to charge.

Section 9. KRS 156.076 is amended to read as follows:

The chief state school officer shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the Division of ***Material and Procurement Services***~~[Purchases]~~. Any board of education, after advertising for bids, may award contracts if the chief state school officer certifies that the bid offers supplies and equipment which meet the standards and specifications fixed by the Kentucky Board of Education and that the bid price is lower than that established by the price contract agreement. If supplies and equipment that meet the specifications of the contracts awarded by the Division of ***Material and Procurement Services***~~[Purchases]~~ or a federal, local, or cooperative agency are available for purchase elsewhere, a board of education may purchase those supplies and equipment without advertising for bids. However, prior to making the purchases, the board of education shall obtain certification from:

- (1) The Department of Education for technology components defined in the master plan for education technology for which standards have been established by the Kentucky Board of Education. The department shall certify that the items to be purchased meet or exceed, at a lower cost, the specifications of the components of the original equipment of manufacturers currently holding Kentucky education technology system price contracts; and
- (2) The district's finance officer for supplies and equipment other than that described in subsection (1) of this section. He shall certify that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, the local school district's bid, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the price contract agreement or available through the bidding process and the price does not exceed two thousand five hundred dollars (\$2,500).

Section 10. KRS 197.210 is amended to read as follows:

- (1) On and after June 17, 1954, all offices, departments, institutions, agencies, and all political subdivisions which are supported in whole or in part by the Commonwealth shall purchase, when economically feasible, from the department all articles or products required which are produced or manufactured by prison labor, as provided by KRS 197.200 to 197.250. No article or product shall be purchased by any office, department, institution, or agency, from any source except as specified in this subsection.

Exceptions may be made in any case where, in the opinion of the Finance and Administration Cabinet, the articles or products produced or manufactured do not meet the reasonable requirements of the offices, departments, institutions, agencies, or where the requisition cannot be reasonably complied with because of an insufficient supply of the articles or products required. However, no office, department, institution, or agency shall be allowed to evade the intent and meaning of KRS 197.200 to 197.250 by slight variations from standards adopted by the Division of ***Material and Procurement Services***~~[purchases]~~, when the articles or products produced or manufactured by the department in accordance with the standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

- (2) All purchases under KRS 197.200 to 197.250 shall be made through the Finance and Administration Cabinet upon requisition by the proper authority of the office, department, institution, agency, or political subdivision of the Commonwealth.

Section 11. KRS 424.260 is amended to read as follows:

- (1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ten thousand dollars (\$10,000) without first making newspaper advertisement for bids.
- (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ten thousand dollars (\$10,000), the fiscal court requirement shall prevail.
- (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of ***Material and Procurement Services***~~[Purchases]~~ or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

- (b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.
- (4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

Section 12. The General Assembly hereby confirms Executive Order 98-1132, issued by the Governor on August 21, 1998, as amended by Executive Order 99-486, issued by the Governor on April 13, 1999, to the extent that the orders are not otherwise confirmed by Sections 1 through 11 of this Act.

HB 98, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.182 is amended to read as follows:

- (1) The membership of the commission shall consist of ~~forty-eight (48)~~~~[forty-five (45)]~~ members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).
- (a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet; secretary of the Cabinet for Families and Children; secretary of the Cabinet for Health Services; secretary of the Cabinet for Workforce Development; secretary of the Education, Arts, and Humanities Cabinet; commissioner of the Department of Agriculture; ***president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System;*** commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.
- (b) Members appointed by the Governor shall be:
1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;~~and~~
 2. Nine (9) at-large members; ***and***
 3. ***One (1) member representing the Community Action Agencies of Appalachian Kentucky.***
- (c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.
- (2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., ***(1)(b)3.,*** and ~~subsection (1)(c)~~ of this section shall serve four (4) year staggered terms and may be reappointed.
- (3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.
- (4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.
- Section 2. The General Assembly confirms Executive Order 99-42, dated January 12, 1999, relating to increasing the

membership of the Kentucky Appalachian Commission from forty-five (45) members to forty-eight (48) members, to the extent it is not otherwise confirmed by this Act.

HB 110, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.205 is amended to read as follows:

The Department of Housing, Buildings and Construction (hereinafter referred to as the department of housing) is hereby created within the Cabinet for Public Protection and Regulation. The department shall be headed by a commissioner appointed by the Governor subject to the provisions of KRS 12.040 and who shall report to the secretary of the Cabinet for Public Protection and Regulation. The office of the commissioner shall also include a deputy commissioner and an executive assistant to the commissioner, who shall be the policy making assistants to the commissioner and shall be appointed pursuant to KRS 12.050. The department shall consist of the Division of Fire Prevention, the Division of Building Codes Enforcement, the Division of Administrative Services, ~~and~~ the Division of Plumbing, and the Division of Heating, Ventilation and Air Conditioning (HVAC).

Section 2. The General Assembly hereby confirms Executive Order 99-1198, dated August 30, 1999, relating to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction, which creates the Division of Heating, Ventilation and Air Conditioning (HVAC), to be headed by a division director appointed by the secretary of the cabinet pursuant to KRS 12.050.

HB 137, AN ACT relating to the Kentucky Long-Term Policy Research Center.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7B.030 is amended to read as follows:

- (1) The board of the Kentucky Long-Term Policy Research Center shall consist of twenty-one (21) members, including ten (10) members selected from state government and eleven (11) at-large members selected from the private and civic sectors, universities, and local governments.
 - (a) State government members shall be appointed as follows:
 1. Three (3) members of the House of Representatives and three (3) members of the Senate shall be appointed by the Legislative Research Commission; and
 2. Four (4) members from the executive branch shall be appointed by the Governor.
 - (b) At-large members shall be appointed as follows:
 1. Five (5) members shall be appointed by the Legislative Research Commission and confirmed by the House of Representatives and the Senate; and
 2. Six (6) members shall be appointed by the Governor and confirmed by the House of Representatives and the Senate;
 3. ~~[Initial at-large appointees may serve prior to confirmation; thereafter, persons appointed to fill expired terms of at-large members shall be confirmed prior to assuming board membership, and board members with expiring terms shall serve until their replacements have been confirmed;~~
 4. ~~Persons appointed to fill vacancies in unexpired terms of at-large members~~ may serve prior to confirmation, but shall continue to serve only if confirmed at the next regular session, or special session if the matter is included in the call therefor of the General Assembly;
 - 4.~~[S.]~~ The provisions of KRS 11.160 shall apply to Senate and House of Representatives confirmation of at-large members appointed by the Legislative Research Commission and the Governor.
- (2) Board members shall serve four (4) year terms, except initial appointments shall be for terms as follows:
 - (a) The Legislative Research Commission shall initially appoint two (2) legislators for terms of two (2) years, two (2) legislators for terms of three (3) years and two (2) legislators for terms of four (4) years; and shall initially appoint one (1) at-large member for a two (2) year term, two (2) at-large members for three (3) year terms, and two (2) at-large members for four (4) year terms.
 - (b) The Governor shall initially appoint two (2) members from the executive branch for terms of two (2) years, one (1) for a three (3) year term, and one (1) for a four (4) year term, and shall initially appoint two (2) at-large members for terms of two (2) years, two (2) for three (3) year terms, and two (2) for four (4) year terms.
- (3) Members of the board shall meet the same age and state residency requirements as provided in Section 32 of the Kentucky Constitution for members of the House of Representatives, shall represent the cultural diversity of Kentucky, and shall have demonstrated an interest in the well-being and development of the Commonwealth.

- (4) The chair shall be elected annually by the board and shall alternate between the members selected from state government and the at-large members. If the chair is a member selected from state government, the vice chair shall be an at-large member, and if the chair is an at-large member, the vice chair shall be a member selected from state government.
- (5) Board members who miss three (3) consecutive meetings ~~may~~~~shall~~ be ~~automatically~~ removed from the board by a majority vote of the board at any regularly scheduled meeting in which a quorum is present. The position shall then be declared vacant and shall be filled in the same manner as it was originally appointed.
- (6) If vacancies are not filled by the original appointing authority within thirty (30) days of the occurrence of the vacancy, the board ~~may~~~~shall~~ fill the vacancy.

HB 159, AN ACT relating to the Department of Law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) The Office of Senior Protection is created in the Department of Law. The Office of Senior Protection shall be headed by an executive director appointed by the Attorney General. The office shall:
 - (a) Identify programs and services which protect senior citizens from economic and physical crime;
 - (b) Conduct seminars, provide workshops, and develop and distribute information to promote public awareness of matters impacting senior citizens and to assist appropriate agencies with training as may be warranted;
 - (c) Coordinate with other units in the Department of Law; local, state, and federal law enforcement agencies; local prosecutors; and local, state, and federal agencies that provide services to senior citizens; and
 - (d) Report to the Attorney General, the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30 of each year on actions which will further the public policy goals of providing a safe and secure environment for senior citizens of the Commonwealth.
- (2) A Senior Protection Advisory Council is created in the Department of Law. The council shall advise the Attorney General on issues to enhance and improve services to promote the protection of senior citizens. The council shall include:
 - (a) The Attorney General, who shall chair the council;
 - (b) Executive Director, Office of Senior Protection;
 - (c) Director, Victims' Advocacy Division;
 - (d) Director, Medicaid Fraud and Abuse Control Division;
 - (e) Director, Consumer Protection Division;
 - (f) Director, Special Investigations Division;
 - (g) Director, Prosecutors Advisory Council Services Division;
 - (h) Commissioner of the Kentucky State Police or the commissioner's designee;
 - (i) Executive director of the Office of Aging Services, Cabinet for Families and Children or the executive director's designee;
 - (j) Secretary of the Public Protection and Regulation Cabinet or the secretary's designee;
 - (k) A state senator named by the President of the Senate;
 - (l) A state representative named by the Speaker of the House of Representatives;
 - (m) Representatives of the following offices or organizations appointed by the Attorney General:
 - 1. One (1) commonwealth's attorney;
 - 2. One (1) county attorney;
 - 3. One (1) sheriff;
 - 4. One (1) chief of police;
 - 5. One (1) area development district representative of aging services; and
 - 6. Two (2) representatives of the American Association of Retired Persons; and
 - (n) Other members named by the Attorney General as may be warranted to further the purposes of this section.
- (3) Members of the Senior Protection Advisory Council shall serve for terms of two (2) years and until their successors are appointed. Members may be reimbursed for actual and necessary expenses incurred in the performance of their duties on the council.

Section 2. KRS 15.010 is amended to read as follows:

- (1) The Attorney General is the head of the Department of Law.

(2) The Department of Law shall include the following major organizational units:

- (a) Criminal Appellate Division;
- (b) Consumer Protection Division;
- (c) Special Investigations Division;
- (d) Special Prosecutions Division;
- (e) Prosecutors Advisory Council Services Division;
- (f) Medicaid Fraud and Abuse Control Division;
- (g) Civil and Environmental Law Division;
- (h) Victims Advocacy Division;
- (i) Child Support Enforcement Commission;
- (j) Administrative Hearings Division;
- (k) Office of Rate Intervention;~~and~~
- (l) Administrative Services Division;
- (m) Office of Senior Protection; and**
- (n) Senior Protection Advisory Council.**

Section 3. If, during the 2000 Regular Session, the General Assembly confirms Executive Order 99-80, which transfers the Office of Aging Services between existing cabinets, the Reviser of Statutes shall change "Cabinet for Families and Children" to the "Cabinet for Health Services" in Section 1 of this Act.

Section 4. The General Assembly confirms Executive Order 98-03, issued by the Attorney General on June 12, 1998, to the extent that it is not otherwise confirmed by this Act.

HB 160, AN ACT relating to the Department of Law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Financial Integrity Division is created in the Department of Law. The division shall:

- (a) Investigate illegal redemption of food stamp benefits in cooperation with the United States Department of Agriculture and the Cabinet for Families and Children;**
- (b) Verify eligibility of food stamp program applicants as to past criminal history;**
- (c) Investigate the illegal distribution of counterfeit merchandise; and**
- (d) Investigate the use of personal identification by persons for the purpose of theft, or fraud, or both theft and fraud, and other illegal or fraudulent activity which may involve electronic commerce.**

(2) The Office of the Attorney General shall coordinate with the Department of Financial Institutions, the United States Secret Service, the Kentucky Bankers' Association, and any other agency or organization to prepare and disseminate information to prevent identity theft.

Section 2. KRS 15.010 is amended to read as follows:

- (1) The Attorney General is the head of the Department of Law.
- (2) The Department of Law shall include the following major organizational units:
 - (a) Criminal Appellate Division;
 - (b) Consumer Protection Division;
 - (c) Special Investigations Division;
 - (d) Special Prosecutions Division;
 - (e) Prosecutors Advisory Council Services Division;
 - (f) Medicaid Fraud and Abuse Control Division;
 - (g) Civil and Environmental Law Division;
 - (h) Victims Advocacy Division;
 - (i) Child Support Enforcement Commission;
 - (j) Administrative Hearings Division;
 - (k) Office of Rate Intervention;~~and~~
 - (l) Administrative Services Division; **and**

(m) Financial Integrity Enforcement Division.

Section 3. The General Assembly confirms Executive Order 98-04 issued by the Attorney General on October 1, 1998, to the extent that it is not otherwise confirmed by this Act.

HB 182, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.302 is amended to read as follows:

The Commission on Correction and Community Service shall consist of the secretary of the Justice Cabinet, the commissioner of the Department of Corrections, the deputy commissioner of the Division of Community Services and Local Facilities; the deputy commissioner of the Division of Adult Correctional Institutions; ~~the chairman of the Parole Board;~~ two (2) Circuit Judges designated by the Governor; five (5) public members appointed by the Governor, these to include a psychiatrist, a professional educator, a member who is qualified to express the views of business and industry, a member who is qualified to express the views of organized labor, and a practicing attorney; and four (4) at-large appointees. The judicial and public members shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless sooner removed for cause; all other members shall serve during their terms of office. The secretary of the Justice Cabinet shall act as chairman of the commission. All public members of the commission shall receive twenty-five dollars (\$25) per day for attending each meeting. Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

Section 2. KRS 439.320 is amended to read as follows:

- (1) The Governor shall appoint a Parole Board consisting of seven (7) members, to be confirmed by the Senate in accordance with KRS 11.160. He shall make each appointment from a list of three (3) names given to him by the Commission on Correction and Community Service. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than four (4) board members shall be of the same political party. The board shall be attached to the Justice Cabinet for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.
- (2) The Governor shall name one (1) member as chairman of the board. ~~The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational, and personnel matters of the board.~~
- (3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars (\$1,000) per year for his services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the Governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.
- (4) The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:
 - (a) For parole hearings at which the inmate appears before the board, three (3) members; and
 - (b) For all other business, four (4) members. A decision by any three (3) member panel in a parole hearing shall be final only if it is unanimous; otherwise the case must be reviewed and voted on by not less than four (4) members of the board. Parole decisions for inmates who do not appear before the board shall be reviewed and voted on by not less than four (4) members of the board.
- (5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.
- (6) Upon the expiration of the terms of office of the two (2) board members whose terms expire May 23, 1994, the Governor shall appoint two (2) members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.
- (7) The Governor shall appoint up to two (2) part-time Parole Board members, to be confirmed by the Senate in accordance with KRS 11.160. The appointment process for these members shall be the same as set forth in subsection (1) of this section, and these members shall possess the same qualifications of a full-time Parole Board member with the additional

requirement that they shall have previously served as a full-time Parole Board member. These members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.

- (8) *The office of executive director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice Cabinet in matters relating to administration. The executive director shall be responsible for the support services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice Cabinet, the chairman of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long-range planning as relevant to the planning needs of the board.*

Section 3. The General Assembly confirms Executive Order 99-1329 reorganizing the Parole Board, dated September 28, 1999, to the extent it is not otherwise confirmed by this Act.

HB 183, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.067 is amended to read as follows:

- (1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent or adjudicated delinquent.
- (2) There is established within the Department of Juvenile Justice, a Division of Program[Educational] Services, that shall be responsible for the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period.
- (3) Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.
- (4) The Division of Program[Educational] Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:
 - (a) For students identified before incarceration as having an educational disability, the Division of Program[Educational] Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.
 - (b) For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.
 - (c) For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.
- (5) The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.
- (6) The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Program[Educational] Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.
 - (a) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.
 - (b) Within five (5) days after the juvenile is released, the Division of Program[Educational] Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.
- (8) The Department of Juvenile Justice shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

Section 2. The General Assembly hereby confirms Executive Order 99-1325, dated September 27, 1999, to the extent it is not otherwise confirmed by this Act. The reorganization creates the Division of Staff Development and abolishes the Division of Detention Programs and the Division of Educational Services, which is referenced in the order as the Division of Education Services. The Division of Quality Assurance is renamed the Division of Program Services, which assumes the duties of the abolished Division of Educational Services as provided in Section 1 of this Act.

HB 184, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-1311, dated September 22, 1999, which creates the Office of the Public Advocate within the Department of Public Advocacy. The Office of the Public Advocate shall consist of the public advocate, the deputy public advocate, the general counsel, and other policy-making positions as deemed necessary.

HB 214, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.12-222 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department of Administration and Support. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall provide cabinet-wide support in fiscal management, information resources, personnel support, budgetary implementation and control, and research development.
- (2) The Department of Administration and Support shall include:
 - (a) ~~The Office of~~ Information Resources *to be headed by an executive director appointed in accordance with KRS 12.050;* ~~Section~~ and
 - (b) The following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:
 - ~~1.(a)~~ The Division of Administrative Services, which shall be responsible for fiscal management, personnel, and payroll functions; and
 - ~~2.(b)~~ The Division of Research, which shall be responsible for general research, economic development library, map sales, and community brochures activities.

Section 2. The General Assembly confirms Resolution 98-1 of the Kentucky Economic Development Partnership, dated April 29, 1998, relating to the reorganization of the Cabinet for Economic Development, to the extent it is not otherwise confirmed by this Act, this Resolution having been made by the Kentucky Economic Development Partnership under the powers and authorities granted to the partnership by KRS 154.010, 154.030, and 12.028. The Resolution abolishes the Information Resources Section within the cabinet's Department of Administration and Support and creates the Office of Information Resources (OIR) within that same Department. All personnel, equipment, files and funding of the Information Resources Section shall be transferred to the newly created OIR and the Secretary is authorized to create such new positions or transfer any additional personnel necessary to effectuate the implementation of this executive order.

HB 215, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

- I. Cabinet for General Government - Departments headed by elected officers:
 1. The Governor.
 2. Lieutenant Governor.
 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
 4. Department of Law.
 - (a) Attorney General.
 5. Department of the Treasury.

- (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Superintendent of Public Instruction.
- 8. Auditor of Public Accounts.
- 9. Railroad Commission.
- II. Program cabinets headed by appointed officers:
 - 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 - 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
 - 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - 4. Transportation Cabinet:
 - (a) Department of Highways.

- (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department *for Business*~~[of Job]~~ Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:
- (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.

- (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.

- (d) Department of Law.
- (e) Department of Information Technology.
- (f) Office of Taxpayer Ombudsman.
- 12. Tourism Development Cabinet:
 - (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
- 13. Cabinet for Workforce Development:
 - (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
- 14. Personnel Cabinet:
 - (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.
- III. Other departments headed by appointed officers:
 - 1. Department of Military Affairs.
 - 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
 - 3. Department for Local Government.
 - 4. Kentucky Commission on Human Rights.

5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. Office of the Chief Information Officer.

Section 2. KRS 154.12-225 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department *for Business*~~[of Job]~~ Development. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall coordinate the recruitment of industries that will enhance the overall viability of Kentucky's economy.
- (2) The Department *for Business*~~[of Job]~~ Development shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:
 - (a) The Industrial Development Division; and
 - (b) The Site Evaluation Division.
- (3) Kentucky's representative development offices located in other states and countries shall be assigned to the Department *for Business*~~[of Job]~~ Development.

Section 3. The General Assembly confirms Resolution 99-1 of the Kentucky Economic Development partnership, dated April 1, 1999, relating to the reorganization of the Cabinet for Economic Development, to the extent it is not otherwise confirmed by this Act, this Resolution having been made by the Kentucky Economic Development partnership under the powers and authorities granted to the partnership by KRS 154.010, 154.030, and 12.028. This Resolution changes the name of the Department of Job Development within the Cabinet for Economic Development to the Department for Business Development. All personnel, equipment, files, and funding, as well as all duties, responsibilities, and obligations of the Department of Job Development shall remain in full force and effect and shall be a part of the newly named Department for Business Development.

HB 265, AN ACT relating to an annual leave sharing program for state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) The Commonwealth of Kentucky annual leave sharing program is created. An employee who has accrued an annual leave balance of more than seventy-five (75) hours may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his or her annual leave balance to another named employee authorized to receive leave under subsection (2) of this section. The employee may not request a transfer of an amount of leave that would result in reducing his or her annual leave balance to less than seventy-five (75) hours.
- (2) An appointing authority, with the approval of the secretary of personnel, may permit an employee of the agency to receive leave under this section if:
 - (a) The employee suffers from a catastrophic loss to his or her personal property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to go on leave for at least ten (10) consecutive working days;
 - (b) The employee has exhausted his or her accumulated annual leave and compensatory leave balances; and
 - (c) The employee has complied with administrative regulations governing the use of annual leave.
- (3) The appointing authority, with the approval of the secretary of personnel, shall determine the amount of leave, if any, that an employee within his or her agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.
- (4) Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the secretary of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The Personnel Cabinet shall maintain records of leave transferred between employees and the utilization of transferred leave.
- (5) While an employee is on leave transferred under this section, he or she shall be deemed a state employee and shall receive the same treatment with respect to salary, wages, and employee benefits.
- (6) All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.
- (7) Any leave transferred under this section that remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the catastrophic loss for which the leave was transferred to an employee in his or her agency.
- (8) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any

other employee for the purpose of interfering with the employee's right to voluntarily contribute leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.

- (9) The secretary of the Personnel Cabinet shall promulgate procedural administrative regulations to implement the provisions of this section.

Section 2. KRS 18A.025 is amended to read as follows:

- (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.
- (2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.
- (3) There is established within the Personnel Cabinet the following offices and departments, each of which shall be headed by a commissioner appointed by the secretary, subject to the prior approval of the Governor, pursuant to KRS 12.050, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:
 - (a) Office of the Secretary, composed of the:
 1. Office of Administrative and Legal Services, which shall:
 - a. Provide all administrative information systems management, and legal services to the Cabinet; and
 - b. Coordinate the state's affirmative action plan established in KRS 18A.138;
 2. Kentucky Public Employees Deferred Compensation Authority which shall be attached to the Office of the secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of Finance and Administration, ex officio; the secretary of Personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A; and
 3. Kentucky Kare;
 - (b) Department for Personnel Administration, composed of the:
 1. Division of Performance Management, which shall coordinate and implement the employee performance evaluation systems throughout state government;
 2. Division of Employee Records, which shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020;
 - b. Process personnel documents and position actions;
 - c. Operate and maintain a uniform payroll system;
 - d. Implement lay-off plans mandated by KRS 18A.113 to KRS 18A.1132;
 - e. Certify payrolls as required by KRS 18A.125; and
 - f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA);
 3. Division of Staffing Services, which shall:
 - a. Operate a centralized applicant and employee counseling program;
 - b. Operate the examination program for State employment;
 - c. Prepare registers of candidate employment;
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
 - e. Construct merit examinations; and
 4. Division of Classification and Compensation, which shall:
 - a. Maintain plans of classification and compensation for the State Service; and
 - b. Review and evaluate the plans; and
 - (c) Department for Employee Relations, composed of the:
 1. Division of Employee Benefits, which shall be responsible for administering and assisting state employees

with the following benefits and programs:

- a. Workers' Compensation (KRS 18A.375);
 - b. Life Insurance (KRS 18A.205 to KRS 18A.220);
 - c. Health Insurance (KRS 18A.225);
 - d. Flexible Benefit Plan (KRS 18A.227);
 - e. Employee Benefit Plan (KRS 18A.2281);
 - f. Sick leave Sharing Program (KRS 18A.197);
 - g. **Annual Leave Sharing Program;**
 - h.** Health and Safety Programs (OSHA); and
 - i.** Assessment and referral services provided to state employees;
2. Division of Communications and Recognition, which shall:
- a. Communicate with state employees about personnel issues and other relevant issues through publications;
 - b. Administer the employee incentive programs established by KRS 18A.202; and
 - c. Provide dispute resolution assistance to state employees and agencies.

- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 18A.197 is amended to read as follows:

- (1) The Commonwealth of Kentucky sick leave sharing program is created. An employee who has accrued a sick leave balance of more than seventy-five (75) hours may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his or her sick leave balance to another named employee authorized to receive leave under subsection (2) of this section. The employee may not request a transfer of an amount of leave that would result in reducing his or her sick leave balance to less than seventy-five (75) hours.
- (2) An appointing authority, with the approval of the secretary of personnel, may permit an employee of the agency to receive leave under this section if:
 - (a) The employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave for at least ten (10) consecutive working days;
 - (b) The employee's need for absence and use of leave are certified by a licensed practicing physician;
 - (c) The employee has exhausted his or her accumulated sick leave, annual leave, and compensatory leave balances; and
 - (d) The employee has complied with administrative regulations governing the use of sick leave.
- (3) The appointing authority, with the approval of the secretary of personnel, shall determine the amount of leave, if any, which an employee within his or her agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.
- (4) Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the secretary of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The Personnel Cabinet shall maintain records of leave transferred between employees and the utilization of transferred leave.
- (5) While an employee is on leave transferred under this section, he or she shall be deemed a state employee and shall receive the same treatment with respect to salary, wages and employee benefits.
- (6) All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.
- (7) Any leave transferred under this section which remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the illness or injury for which the leave was transferred to an employee in his agency.
- (8) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.
- (9) The secretary of the Personnel Cabinet shall promulgate procedural administrative regulations to implement the provisions of this section.

Orders of the Day

HB 2, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Substitute to **HB 2**. Agreed.

Representative Vincent moved that **HB 2**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 11, 2000 roll call on **HB 2** - Appendix.)

HB 2, by way of Committee Substitute, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 2**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **HB 16** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 11, 2000 roll call on **HB 16** - Appendix.)

HB 16 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 16** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills

HB 318, by Representative Feeley: AN ACT relating to retirement.

HB 319, by Representatives Moberly, Richards, L. Clark, Lee, R. Adams, Weaver, Haydon, Damron, Geveden, Buckingham, Palmer, Ballard, Collins, Adkins, Stacy, Stumbo, Anderson, Draud, J. Arnold, Callahan, L. Belcher, Kerr, and Rasche: AN ACT relating to revenue and taxation.

HB 320, by Representative Collins: AN ACT relating to the retail price of new motor vehicles.

HB 321, by Representative Wayne: AN ACT relating to students with disabilities.

HB 322, by Representative Wayne: AN ACT relating to safety and security at postsecondary education institutions.

HB 323, by Representative Heleringer: AN ACT relating to retirement.

HB 324, by Representatives Colter, Childers, Scott, L. Clark, Napier, T. Turner, Miller, Alexander, Feeley, Upchurch, Stein, Draud, Siler, Crimm, Rader, Ausmus, D. D. Butler, and Anderson: AN ACT relating to library media centers.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Banking and Insurance: **HB 246**

Motions, Petitions, and Communications (Continued)

Representative Hoover moved the adoption of the following **Legislative Citation No. 4**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in reverent memory of Gregory Wayne Conner. The House of Representatives joins Representative Jeffrey Hoover in expressing its deepest sympathy to all who share in the great loss on the passing of this distinguished gentleman, cherished son of Keith and Maxine Conner; beloved grandson of Rosa Conner; adored brother of Lisa, Bobby, Mike and Jeff; and treasured friend of Barbara Edwards. A former star athlete at Clinton County High School, Greg Conner was a respected businessman and insurance salesman, who was also an active and highly regarded member of his community where he coached Little League baseball and Youth League basketball programs. Inasmuch as Gregory Wayne Conner will long be remembered by those whose pleasure it was to know him for the consummate generosity and kindness that he demonstrated throughout the years of his life, the members of this august body are indeed honored to join with family and friends in mourning the loss of this fine and beloved citizen of the Commonwealth. Done in Frankfort, this eleventh day of January, in the year of our Lord, two thousand.

Legislative Citation No. 4 was adopted without objection.

Representative L. Belcher moved the adoption of the following **HR 38**:

HR 38, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jiryis Sweis.

With deepest respect and admiration, we pay homage and tribute to Jiryis Sweis, and we pause in silent reverence for his soul.

WHEREAS, Jiryis Sweis was born on May 2, 1941, a native of Amman, Jordan, and an American citizen and longtime resident of Bullitt County, and he traversed these earthly bounds on January 3, 2000; and

WHEREAS, Jiryis Sweis was the adored son of the late Hanna Khoury Sweis and Saliba Suleimans Sweis, and he was the loving brother of three sisters, Najla Jreisat, Nour Michael, and Nuha Amari, and a brother, Saliba Sweis; and

WHEREAS, Jiryis Sweis was the devoted husband of Donetta Sweis, and he was the proud father of two sons, Laith Jiryis and Sami Jiryis Sweis; and

WHEREAS, Jiryis Sweis was a former president of the 5th District Education Association and the Bullitt County Education Association, and he was former head of the political action committees of the Kentucky and Bullitt County education associations; and

WHEREAS, Jiryis Sweis's accomplishments as an educator exemplified his professionalism in the classroom, and his academic career was devoted to his students and his strong and active support of the student faculty; and following his 30-year career with the Bullitt County school system, he will be fondly remembered not only for his many academic achievements, but also his compassion for and understanding of the common man which he demonstrated daily throughout his life; and

WHEREAS, Jiryis Sweis was a devout member of St. Michael Eastern Orthodox Church in Louisville, Kentucky, where his funeral service will be held on Thursday, January 6, 2000; and

WHEREAS, all who knew and admired Jiryis Sweis will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Jiryis Sweis, and extends to his family and countless friends its most heartfelt sympathy.

Section 2. A life spent worthily should be measured by deeds, not years, and through his compassion, enthusiasm and genuine love and concern for his fellow man, Jiryis Sweis is worthy of the highest commendation.

Section 3. When the House of Representatives adjourns this day, January 5, 2000, it does so in loving memory and honor of Jiryis Sweis.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Donetta Sweis, 467 Loretta Drive, Shepherdsville, Kentucky 40165.

There being no objection **HR 38** was adopted.

Representative Barrows moved the adoption of the following **HR 40**:

HR 40, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Laura Jeanne Noel.

With deepest respect and admiration, we pay homage and tribute to Laura Jeanne Noel, and we pause in silent reverence for her soul.

WHEREAS, Laura Jeanne Noel was born on February 20, 1924, a native of Breathitt County, Kentucky, and she traversed these earthly bounds on December 30, 1999; and

WHEREAS, Laura Jeanne Noel was the adored daughter of the late W. E. and Mae Sawyer Blake; she was the devoted

wife of Paul W. Noel, Sr.; she was the loving mother of a son, Paul W. Noel, Jr.; and she was the proud grandmother of two grandchildren, Trae Noel and Allison Noel, and a great-granddaughter, Abigail Jean Noel; and

WHEREAS, Laura Jeanne Noel was a graduate of the University of Kentucky; she was a gifted vocalist and pianist, and retired from the Woodford County School System in May, 1980, after serving as the choral director at Woodford County High School and Midway High School, and she organized and directed the first Sweet Adelines Barber Shop Chorus in Versailles; and

WHEREAS, Laura Jeanne Noel was an active citizen in the Woodford County community where she was a former board member of the Cleveland Home and the Woodford County Theatrical Arts Association, where she contributed her talents to several Theatrical Association productions; she was a member of the Eastern Star, and she was a devout member of the Versailles First Christian Church, where she served as choir director; and

WHEREAS, the passing of Laura Jeanne Noel has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its most profound sense of sorrow upon the passing of Laura Jeanne Noel, and extends to her family its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Laura Jeanne Noel brought to this Commonwealth will never be forgotten, and her influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Laura Jeanne Noel.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Honorable Paul W. Noel, Sr., 268 Rose Hill, Versailles, Kentucky 40383.

There being no objection **HR 40** was adopted.

Representative Siler moved that **HB 20** be withdrawn. Agreed.

Representative Stumbo moved that **HB 294** be reassigned to Licensing and Occupations. Agreed.

Representative Stumbo moved that **HB 67** be reassigned to Labor and Industry. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 175**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 16: Representatives Cherry, Colter

HB 21: Representative Cherry

HB 44: Representative D. Butler

HB 65: Representatives R. Adams, Cherry, Crenshaw, Damron, McKee,
Nunn

HB 69: Representative Cherry

HB 115: Representative Thompson

HB 144: Representatives J. Arnold, Marzian, Palumbo

HB 147: Representatives Buckingham, Cherry, Colter, Nunn, Stewart,
Weaver, Webb

HB 148: Representative Webb

HB 174: Representative Jordan

HB 175: Representatives A. Arnold, J. Arnold, R. Adams, Baugh, Cherry,
McKee, Sims, Thomas

HB 176: Representatives R. Adams, Callahan, Colter

HB 177: Representative Marzian

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- HB 180:** Representatives Ballard, Branham, P. Clark, Coleman, Colter, Gray, Geveden
- HB 200:** Representative Feeley
- HB 203:** Representatives R. Adams, Walton
- HB 213:** Representative Palumbo
- HB 216:** Representative R. Adams
- HB 236:** Representatives Marcotte, Yonts
- HB 237:** Representatives Jordan, Palumbo
- HB 250:** Representatives L. Belcher, Callahan, Colter, Geveden, Nesler
- HB 255:** Representatives D. Butler, Coleman, Geveden, Horlander, Jordan, Miller, Palumbo, Rader
- HB 261:** Representatives Bruce, Damron
- HB 267:** Representative R. Adams
- HB 268:** Representative Webb
- HB 295:** Representative Bratcher
- HB 306:** Representative Marcotte
- HB 312:** Representatives Coleman, Fischer, Haydon
- HJR 5:** Representative McKee

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

- HB 276:** Representative Crall

Announcements

The following meetings were announced:

Transportation, 10:00 a.m., January 12, 2000

Labor and Industry, Room 125, 8:30 a.m., January 12, 2000

Tourism Development and Energy, 15 minutes upon adjournment, Room 131

Regulation Review Subcommittee, upon adjournment, January 12, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 12, 2000.

On the roll call the vote was **Yeas 74**--R. Adams, Adkins, Allen, A. Arnold, J. Arnold, Ausmus, Ballard, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Bruce, Buckingham, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Collins, Colter, Cornett, Crenshaw, Crimm, Damron, DeWeese, Draud, Ford, Geveden, Gray, Haydon, Hoffman, Horlander, Johns, Kerr, Lee, Lindsay, McKee, Moberly, Napier, Nesler, Nunn, Palmer, Palumbo, Polston, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stumbo, Tapp, Thomas, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Walton, Wayne, Weaver, Webb, Wilkey, Worthington, Yonts. **Nays 4**--Crall, Gooch, Hoover, Stewart.

The motion to adjourn was adopted.

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The House was called to order by Speaker Richards.

Prayer by Rev. Jackson R. Brewer, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Collins and Cox.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 11, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative J. Arnold moved that the rules be suspended to grant floor privileges to guests and to act upon a Legislative Citation. Agreed.

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 5**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Mallory Ervin as she visits the chambers of the Kentucky House of Representatives on this day of the 2000 Regular Session. This talented young lady and accomplished singer is further offered sincere gratitude for her gracious consent to regale the members of this distinguished body with renditions of "God Bless the Child," and "My Old Kentucky Home." Inasmuch as Mallory Ervin has demonstrated tremendous charm and grace by her presence on this memorable occasion, the members of this august body are delighted to join Representative John A. Arnold, Jr., in applauding this remarkable young lady for her splendid performance and in extending to her best wishes for continuing success and good fortune. Done in Frankfort, this twelfth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 5 was adopted without objection.

Representative J. Arnold moved to suspend the rules to allow Mallory Ervin to sing in the Chamber. Agreed.

Introduction of Bills and Resolutions

HB 325, by Representative Worthington: AN ACT relating to traffic regulations.

HB 326, by Representatives Fischer, Reinhardt, Stewart, Callahan, and Anderson: AN ACT related to the probationary period of police and firefighters.

HB 327, by Representative D. Butler: AN ACT relating to charitable gaming.

HB 328, by Representatives D. Butler, Horlander, Riggs, Jordan, Marzian, L. Clark, Jenkins, Burch, Heleringer, Johns, Bratcher, Crimm, and Miller: AN ACT relating to deputy sheriff merit boards.

HB 329, by Representative Lee: AN ACT relating to video voyeurism.

HB 330, by Representative Wayne: AN ACT relating to economic development.

HB 331, by Representatives Jordan, Stein, Marzian, Burch, L. Clark, Wayne, and Jenkins: AN ACT relating to the repeal of the auction of confiscated firearms.

HB 332, by Representatives Treesh and Crall: AN ACT relating to educational institution and school district annual financial reports.

HB 333, by Representative Treesh: AN ACT relating to pupil transportation.

HB 334, by Representatives J. Adams, Cherry, Gray, Bruce, and Polston: AN ACT relating to planning and zoning.

HB 335, by Representative Simpson: AN ACT relating to city civil service positions.

HJR 41, by Representative Wilkey: A JOINT RESOLUTION renaming a segment of KY 100 in Simpson County the "Veterans Memorial Highway".

HJR 42, by Representative Richards: A JOINT RESOLUTION reauthorizing the Kentucky Aquaculture Task Force, and making an appropriation therefor.

HR 43, by Representative Riner: A RESOLUTION urging lobbyists to honor a moratorium on political fundraising when the Kentucky General Assembly is in session.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 316, HB 319, HB 320**

Education: **HB 321, HB 322, HB 324, HCR 35, HCR 36, HCR 37**

Judiciary: **HB 315**

Local Government: **HB 314**

Seniors, Military Affairs, and Public Safety: **HB 317**

State Government: **HB 313, HB 318, HB 323**

Transportation: **HJR 39**

Posting of Bills for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 191, HB 192, HB 193, HB 194**

Labor and Industry: **HB 67**

Local Government: **HB 257, HB 258**

Report of Committees

The Committee on Tourism Development and Energy reported **HB 43**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 43, AN ACT relating to tourism development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.29-010 is amended to read as follows:

As used in KRS 139.536 and KRS 154.29-010 to 154.29-060, unless the context clearly indicates otherwise:

- (1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 154.29-050, on behalf of the authority and an approved company on or before June 30, 2002, with respect to a tourism attraction project;
- (2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the authority pursuant to KRS 154.29-050 that is seeking to undertake a tourism attraction project;
- (3) "Approved costs" means:
 - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;
 - (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
 - (d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

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- (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;
 - (f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and
 - (g) All other costs comparable with those described in this subsection;
- (4) "Authority" means the Kentucky Economic Development Finance Authority as set forth in KRS 154.20-010;
 - (5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;
 - (6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to KRS 154.29-030. An eligible company may operate or intend to operate directly or indirectly through a lessee;
 - (7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;
 - (8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 154.29-010 to 154.29-060;
 - (9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;
 - (10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 154.29-010 to 154.29-060;
 - (11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;
 - (12) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, or an entertainment destination center. A tourism attraction shall not include any of the following:
 - (a) Lodging facilities, unless:
 - 1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, **except that lodging facilities may represent more than fifty percent (50%) of the total approved cost if the lodging facilities incorporate a historic structure of at least one hundred thousand (100,000) square feet and meet the requirements of the United States Department of the Interior Standards for Treatment of Historic Properties;** or
 - 2. The facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency; **or**
 - 3. **The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the restoration or restoration project has been approved in advance by the Kentucky Heritage Council;**
 - (b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and
 - (c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and
 - (13) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the

boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

The Committee Amendment No. 1 to **HB 43** is as follows:

On page 3, line 26, by deleting "except that lodging facilities may represent"; and

By deleting line 27 in its entirety; and

On page 4, by deleting lines 1 through 3 in their entirety; and

On page 4, line 4, by deleting "Historic Properties"; and

On page 4, line 5, by deleting "2." and by making "The" lower-case; and

On page 4, line 8, by deleting "3." and inserting in lieu thereof "2."; and

On page 5, after line 4, by inserting the following:

"SECTION 2: Whereas the restoration or rehabilitation of historic structures in the Commonwealth is of utmost importance to preserve our cultural heritage, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

The Committee Amendment No. 2 Title to **HB 43** is as follows:

By amending the title to read as follows: "AN ACT relating to tourism development and declaring an emergency."

The Committee on Education reported **HB 40**, **HB 174**, **HB 261**, with Committee Substitute attached thereto, and **HB 266** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 40, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) There shall be a nominating commission for each community college board of directors to provide names of nominees to the Governor for appointment to the board of directors.
- (2) (a) Each nominating commission shall be composed of five (5) members who shall reside in the service area of the community college at the time of their appointment. Nominees shall have no conflict of interest in accordance with KRS 45A.340 or have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television.
- (b) Members of the nominating commission shall serve four (4) year terms, or until a successor shall be appointed, except the initial appointments shall be as follows:
 1. One (1) member shall serve a one (1) year term;
 2. Two (2) members shall serve a two (2) year term;
 3. One (1) member shall serve a three (3) year term; and
 4. One (1) member shall serve a four (4) year term.
- (3) (a) The nominating commission shall submit to the Governor the names of three (3) nominees for each position on the board of directors who meet the eligibility criteria for membership under KRS 164.600.
- (b) In the selection of the nominees, the nominating commission shall consider the needs of the respective community college, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary. The commission shall consider the goals for diversity of membership as set out in subsection (4) of this section.
- (4) The Governor shall appoint members who reflect, inasmuch as possible, equal representation of the two (2) sexes and, in the context of the total membership of all of the commissions, shall approximate the proportional representation of the two (2) leading political parties and the minority racial composition of the state. Each appointment shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor may reject all names of nominees and request the submission of three (3) additional names for consideration.
- (5) The members of the commissions shall be reimbursed for actual and necessary expenditures incurred in the performance of their duties.
- (6) The nominating commissions shall be attached to the Kentucky Community and Technical College System and the Governor's office staff shall provide staffing and administrative assistance.

Section 2. KRS 164.600 is amended to read as follows:

- (1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
- (2) There shall be a board of directors for each community college under the Kentucky Community and Technical College System, except as provided in KRS 165.160. Each board of directors shall:
 - (a) Recommend one (1) candidate for the community college president from three (3) candidates provided by the president of the Kentucky Community and Technical College System. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;
 - (b) Evaluate the community college president and advise the chancellor of his or her performance. The president has final authority for the appointment and termination of the community college president;
 - (c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;
 - (d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;
 - (e) Approve and implement a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.
- (3) The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.
- (4) Each board of directors shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor from nominees of the respective community college nominating commission established under Section 1 of this Act for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other two (2) board members shall be one (1) member of the teaching faculty and one (1) member of the student body. An appointed member's term shall be six (6) years.
- (5) The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.
- (6) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.
- (7) The members of the board of directors shall receive no compensation for their services but shall be paid for their actual and necessary expenses.
- (8) No citizen member of the board of directors shall be a relative of any employee of the community college under its jurisdiction. A person who is a member of the board on July 15, 1998, who is a relative of an employee of the community college may finish out the appointed term of office but the member may not be reappointed.
- (9) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

Section 3. The General Assembly hereby confirms Executive Order 98-636, dated May 28, 1998 and Executive Order 98-1591, dated December 2, 1998, to the extent they are not otherwise confirmed or superseded by this Act.

HB 174, AN ACT relating to kindergarten.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

- (1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.
 - (a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and

- (b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;
- (2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;
- (3) "Board" means the board of education of any county or independent school district;
- (4) "District" means any school district as defined by law;
- (5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;
- (6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;
- (7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten pupils who qualify for free or reduced-price lunch and who attend a full-day kindergarten program offered by a school district for all kindergarten pupils within the district shall be counted as full-day in the aggregate days attended divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;
- (8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;
- (9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;
- (10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;
- (11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;
- (12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;
- (13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;
- (14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;
- (15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;
- (16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board; and
- (17) "Weather-related low attendance day" means a school day on which the district's attendance falls below the percentage of

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average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the Kentucky Board of Education in accordance with its administrative regulations.

Section 2. KRS 158.060 is amended to read as follows:

- (1) Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. School shall be closed on the day of a regular election. The legal holiday designated by the Kentucky Board of Education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as a school day.
- (2) Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the chief state school officer. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the noninstructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of noninstructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's instructional day, or the time teachers are required to remain at school after the students are dismissed.
- (3) Except for children with disabilities and children attending the primary school program who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the commissioner of education and children attending a school district where the local board has approved a schedule that provides at least the equivalent of six (6) hours of daily instruction during the school year, a minimum of six (6) hours of actual school work shall constitute a school day. Kindergarten programs may be operated for less than six (6) hours without state board approval; however, a school district that offers a full-day kindergarten program and receives state funds for full-day attendance for eligible students under subsection (7) of Section 1 of this Act shall operate the program in accordance with the school calendar and hours of attendance for the elementary and secondary schools in the local school district. The Kentucky Board of Education, upon recommendation of the chief state school officer, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.
- (4) Teachers shall be provided additional time for nonteaching activities. The nonteaching time shall be used to provide teachers opportunities for professional development activities as provided in KRS 156.095, instructional planning, school-based decision making as provided in KRS 160.345, curriculum development, and outreach activities involving their students' families and the community.

Section 3. KRS 157.360 is amended to read as follows:

- (1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.
- (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:
 - (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay a hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
 - (b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and
 - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

- (4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:
 1. Twenty-four (24) in primary grades (kindergarten through third grade);
 2. Twenty-eight (28) in grade four (4);
 3. Twenty-nine (29) in grades five (5) and six (6);
 4. Thirty-one (31) in grades seven (7) to twelve (12);
 - (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
 - (c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
 - (d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.
- (5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.
 - (6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.
 - (7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
 - (8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten ~~shall be calculated as defined in Section 1 of this Act~~ ~~is the kindergarten full-time equivalent pupils in average daily attendance~~.
 - (9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.
 - (10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).
 - (11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in

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agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

- (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.
- (c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.
- (12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and
- (b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.
- (13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

HB 261, AN ACT relating to school facilities construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

- (1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay fund; ~~and the capital outlay fund account balance; and the general fund balance minus ten percent (10%) of the annual general fund budget.~~ These accounts shall be as defined in the manual for Kentucky school financial accounting systems;
- (2) "Board of education" means the governing body of a county school district or an independent school district;
- (3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city or county in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;
- (4) "Department" means the State Department of Education;
- (5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;
- (6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue

Cabinet as provided by KRS 160.470. The amount of income from any voted building tax shall be included in computing the equivalent tax rate;

- (7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;
- (8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;
- (9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;
- (10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;
- (11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;
- (12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;
- (13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;
- (14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;
- (15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and
- (16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars (\$100,000) or a district qualifying for education technology funding.

Section 2. KRS 157.620 is amended to read as follows:

- (1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:
 - (a) Commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents (\$0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.
 - (b) On July 29, 1985, and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.
- (2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.
- (3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.
- (4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:
 - (a) The amount of school facility construction needs in each district;
 - (b) The amount of available local revenue in each district; and
 - (c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.
- (5) Construction needs shall be those ~~projects[needs]~~ specified in the most current school facilities plan approved by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan ~~as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The Kentucky Board of Education shall conduct public hearings on all amendments to approved plans.~~
- ~~(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the~~

~~district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the Kentucky Board of Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district].~~

Section 3. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

- (1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;
- (2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;
- (3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the most current facility plan approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission prior to the appropriation of funds, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;
- (4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified;
- (5) The commission shall promulgate administrative regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year;
- (6) Except as provided in subsection (7) of this section, all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section; and
- (7) Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

The Committee Substitute No. 1 to **HB 261** is as follows:

HB 261, AN ACT relating to school facilities construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

- (1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay and building funds~~fund~~; and the capital outlay fund account balance on June 30 of odd-numbered years~~;~~ and the general fund balance minus ten percent (10%) of the annual general fund budget. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;
- (2) "Board of education" means the governing body of a county school district or an independent school district;
- (3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city or county in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from

taxation under the Constitution of the Commonwealth;

- (4) "Department" means the State Department of Education;
- (5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;
- (6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet as provided by KRS 160.470~~[- The amount of income from any voted building tax shall be included in computing the equivalent tax rate];~~
- (7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;
- (8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;
- (9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;
- (10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;
- (11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;
- (12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;
- (13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;
- (14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;
- (15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and
- (16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars (\$100,000) or a district qualifying for education technology funding.

Section 2. KRS 157.620 is amended to read as follows:

- (1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:
 - (a) Commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents (\$0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.
 - (b) On July 1 of odd-numbered years~~[July 29, 1985, and on June 30 of each year thereafter]~~, the district board of education shall restrict~~[transfer]~~ all available local revenue, as defined by KRS 157.615, ~~[to a restricted account]~~ for school building construction, to be utilized in accordance with the priorities determined by the most current~~[approved]~~ school facilities plan approved by the Kentucky Board of Education.
- (2) Interest earned on ~~[funds deposited in the]~~ restricted funds~~[accounts]~~ required by this section shall ~~[be deposited in the restricted account and shall]~~ become a part of the restricted funds.
- (3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.
- (4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:
 - (a) The amount of school facility construction needs in each district;
 - (b) The amount of available local revenue in each district; and
 - (c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

- (5) Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding the biennium in which funding is approved. ~~All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The Kentucky Board of Education shall conduct public hearings on all amendments to approved plans.~~
- (6) ~~If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the Kentucky Board of Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.~~

Section 3. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

- (1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;
- (2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;
- (3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the **most current** facility plan **approved by the Kentucky Board of Education** ~~certified to the School Facilities Construction Commission prior to the appropriation of funds~~, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;
- (4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified;
- (5) The commission shall promulgate administrative regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year;
- (6) Except as provided in subsection (7) of this section, all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section; and
- (7) Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

HB 266, AN ACT relating to personal telecommunications devices in public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.165 is amended to read as follows:

- (1) ~~[A student in a public school shall not possess a paging device while on school property or while attending a school-sponsored or school-related activity on or off school property unless the student is in attendance in the capacity of an active member of a volunteer firefighting organization or a volunteer emergency medical services organization.]~~

- (2) ~~]~~The board of *education* of each school district shall develop a policy regarding the possession and use of a personal telecommunications device by a student while on school property or while attending a school-sponsored or school-related activity on or off school property, and shall include the policy~~[prohibition in subsection (1) of this section]~~ in the district's written standards of student conduct. A student who violates the policy~~[prohibition]~~ shall be subject to discipline as provided by board policy~~[, consistent with this section]~~.
- (2)~~[(3)]~~ A person who discovers a student in possession of a paging device in violation of this section shall report the violation to the appropriate school administrator, as determined by school policy, who shall order a peace officer or appropriate school employee to confiscate the device, which is forfeited to the school district.
- (4)~~]]~~ In this section, "personal telecommunications device"~~["paging device"]~~ means a ~~[telecommunications]~~ device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, including but not limited to a paging device and a cellular telephone.

The Committee on Labor and Industry reported **HB 72** and **HB 232** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 72, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.390 is amended to read as follows:

There shall be deducted from the benefit rate determined for a worker in accordance with subsection (2) of KRS 341.380:

- (1) Eighty percent (80%), adjusted to the nearest multiple of one dollar (\$1), of the amount of wages earned by such worker during the week of unemployment with respect to which he claims benefits. For the purpose of this subsection, wages shall also include amounts earned by benefit claimants in self employment provided such earnings otherwise meet the definition of wages as contained in KRS 341.030;
- (2) The amount of remuneration which the worker has received or is receiving with respect to such week of unemployment (adjusted to the nearest multiple of one dollar (\$1)) in the form of remuneration in lieu of notice; and
- (3)
 - (a) The amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment under a plan maintained or contributed to a chargeable or base-period employer, shall be reduced (but not below zero (0)) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week; except that this reduction shall not be made if the secretary may provide for limitations on the amount of any such deduction to take into account contributions made by the worker contributed to for the pension, retirement or retired pay, annuity, or other similar periodic payment.~~[The weekly benefit amount payable to a claimant for a week shall be reduced, but not below zero, by no part of a Social Security retirement pension if fifty percent (50%) or more of the contributions to the plan were provided by the claimant during the claimant's base period.]~~
 - (b) No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the worker during the base period (or remuneration received for such services) for such employer did not affect the worker's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other similar periodic payment. The conditions specified by this subsection shall not apply to pensions paid under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such acts shall be treated solely in the manner specified by paragraph (a) of this subsection.
 - (c) If Public Law 94-566, Public Law 96-364 or the federal act which amends either for any cause shall become inoperative in its application, or stayed pendente lite, as to deductions of such compensation, then~~[,]~~ subsection (3) of this section, by virtue of that fact, shall likewise and to the same extent~~[,]~~ become inoperative as to such deductions.

HB 232, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.540 is amended to read as follows:

- (1) Any employing unit which succeeds to or acquires the organization, trade, or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of the~~[such]~~ delinquency within six (6) months after the department has notice of the succession or acquisition.
- (2) The liability for delinquent contributions and interest imposed upon the successor or acquirer by subsection (1) of this

section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on ~~the[such]~~ judgment shall be as follows:

- (a) Against the assets, both real and personal, of the predecessor or predecessors;
 - (b) Against the assets, both real and personal, of the business acquired; and
 - (c) Against the assets, both real and personal, of the successor or acquirer.
- (3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a segregable and identifiable portion of the organization, trade, or business from a subject employer, and who is, or by reason of ~~the[such]~~ succession or acquisition becomes, a subject employer, shall assume the position of ~~an[such]~~ employer with respect to the resources and liabilities of ~~the[such]~~ reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters, preceding the date of succession or acquisition, for workers employed by the successor subsequent to that date [as determined by the secretary, and] The taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion.
- (4)
- (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.
 - (b) The contribution rate of a successor or acquirer employing unit, either in whole or in part, which was not a subject employer prior to such succession or acquisition, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.
 - (c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.
 - (d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

The Committee on Transportation reported **HB 8**, **HB 69**, and **HB 250** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to fines and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2)
- (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined not less than sixty dollars (\$60) and not more than five hundred dollars (\$500)~~two cents (\$0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (\$0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (\$0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (\$0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (\$0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars (\$60).~~
- (b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than

ten dollars (\$10) nor more than five hundred dollars (\$500).

- (c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
- (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).
- (25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25).
- (26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars (\$10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
 - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) A person issued a citation for violating the provisions of subsection (2)(a) of Section 1 of this Act between July 15, 1998, and the effective date of this Act, and who paid a fine in excess of five hundred dollars (\$500) to satisfy the citation, shall be issued a refund for any amount paid in excess of five hundred dollars (\$500) by applying to the Kentucky State Treasurer.
- (2) A claim for a refund under this section shall be submitted to the Kentucky State Treasurer on forms created by the Treasurer. The Treasurer shall make refund claim forms available to the public free of charge. Refund claims shall include proof of the amount paid to satisfy the citation and other information the Treasurer may require by administrative regulation promulgated under KRS Chapter 13A. The Treasurer shall promulgate an emergency administrative regulation to implement the provisions of this section immediately upon the effective date of this Act. A claim for a refund must be postmarked by June 30, 2002, or before.
- (3) A refund received under the provisions of this section shall not be allowed to accrue interest.
- (4) The provisions of this section shall apply only to refund claims attributable to persons cited for violating subsection (2)(a) of Section 1 of this Act between July 15, 1998, and the effective date of this Act and who paid a fine in excess of five hundred dollars (\$500) to satisfy the citation.

Section 3. Whereas many individuals have been cited for excessive fines under changes inadvertently made to KRS 189.990(2)(a) by the 1998 General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Section 4. The provisions of Section 1 of this Act shall be effective retroactively to July 15, 1998.

HB 69, AN ACT relating to licensing of motor vehicle dealers, manufacturers, and distributors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.030 is amended to read as follows:

- (1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a salesman of motor vehicles shall not

engage in business in this state without a license as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.

- (2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.
- (5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.
- (6) The license fee for a calendar year, or part thereof, shall be as follows:
 - (a) For new motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof, plus one hundred dollars (\$100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.
 - (b) For used motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
 - (c) For motor vehicle leasing dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
 - (d) For restricted motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
 - (e) For motorcycle dealers, one hundred dollars (\$100) for each office, branch, or agent thereof.
 - (f) For motor vehicle manufacturers, one hundred dollars (\$100); and for each factory branch in this state, one hundred dollars (\$100).
 - (g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.
 - (h) For motor vehicle salesmen, ten dollars (\$10).
 - (i) For factory representatives, or distributor branch representatives, one hundred dollars (\$100).
- (7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed within the same municipality, the licensor shall ~~endorse~~^{indorse} the change of location on the license ~~without charge if it is within the same municipality, if the licensee meets the requirements set forth by the commission through administrative regulations and pays a fee of one hundred dollars (\$100).~~ A licensee shall not be charged a fee for changing locations within the same municipality. A change of location to another municipality shall require a new license.
- (8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse the change on the license without charge.
- (9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars (\$15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.
- (10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.
- (11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

HB 250, AN ACT relating to motor vehicle dealers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.990:

- (1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:
 - (a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.
 - (b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.
 - (c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.
 - (d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.
 - (e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.
- (2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.
- (3) The term "motor vehicle dealer" shall not include:
 - (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;
 - (b) Public officers while performing their official duties; or
 - (c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees.
- (4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles.
- (5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles.
- (6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.
- (7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers.
- (8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation.
- (9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles. Motorcycles shall not include mopeds as defined in this section.
- (10) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

- (11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction.
- (12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, that is self propelled, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.
- (13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer.
- (14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (15) "Commission" means the Motor Vehicle Commission.
- (16) "Commissioner" means the commissioner of the department.
- (17) "Department" means the Department of Vehicle Regulation.
- (18) "Licensor" means the commission.
- (19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances.
- (20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity.
- (21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.
- (22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b).
- (23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.
- (24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.
- (25) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise.

Section 2. KRS 190.040 is amended to read as follows:

- (1) A license may be denied, suspended, or revoked on the following grounds:
 - (a) Proof of financial or moral unfitness of applicant;
 - (b) Material misstatement in application for license;
 - (c) Filing a materially false or fraudulent tax return as certified by the Revenue Cabinet;
 - (d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;
 - (e) Willfully defrauding any retail buyer to the buyer's damage;
 - (f) Willful failure to perform any written agreement with any buyer;
 - (g) Failure or refusal to furnish and keep in force any bond required;
 - (h) Having made a fraudulent sale, transaction, or repossession;
 - (i) False or misleading advertising;

- (j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;
 - (k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;
 - (l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;
 - (m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;
 - (n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;
 - (o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;
 - (p) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any license holder from selling any motor vehicle to any of its employees;
 - (q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.
- (2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.
 - (3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.
 - (4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.
 - (5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.
 - (6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

Section 3. KRS 190.045 is amended to read as follows:

- (1) Notwithstanding the terms, provisions, or conditions of any franchise or notwithstanding the terms or provisions of any waiver, ~~a~~no manufacturer shall not cancel, terminate, or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:
 - (a) Satisfied the notice requirement of subsection (4) of this section;
 - (b) Has good cause for cancellation, termination, or nonrenewal;
 - (c) Has acted in good faith as defined in KRS 190.010(22); and
 - (d) Has established the requirements of this subsection in proceedings before the licensor if the action is protested by the new motor vehicle dealer within fifteen (15) days after receiving notice of the cancellation, termination, or nonrenewal.

When a protest is filed, the licensor shall inform the manufacturer, distributor, factory branch, or factory representative that a timely protest has been filed and that the manufacturer, distributor, factory branch, or factory representative shall not cancel, terminate, or fail to renew any franchise with the licensed new motor vehicle dealer until the licensor has held a hearing and the licensor has determined that the manufacturer has met its burden under this section.

- (2) Notwithstanding the terms, provisions, or conditions of any franchise or the terms or provisions of any waiver, good cause

shall exist for the purposes of a termination, cancellation, or nonrenewal when:

- (a) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days after the manufacturer first acquired knowledge of ~~the[such]~~ failure.
- (b) If the failure by the new motor vehicle dealer, defined in paragraph (a) of this subsection, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer, if the new motor vehicle dealer was apprised by the manufacturer in writing of ~~a[such]~~ failure, and
 1. ~~The[Said]~~ notification stated that notice was provided of failure of performance pursuant to this section;
 2. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with ~~the[such]~~ criteria; and
 3. The new motor vehicle dealer did not demonstrate substantial progress toward compliance with the manufacturer's performance criteria during ~~the designated[such]~~ period.
- (3) The manufacturer shall have the burden of proof under this section.
- (4) Notwithstanding the terms, provisions, or conditions of any franchise prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of ~~a[such]~~ termination, cancellation, or nonrenewal to the new motor vehicle dealer as follows:
 - (a) In the manner described in subsection (2)(b) of this section; and
 - (b) In not less than ninety (90) days prior to the effective date of ~~the[such]~~ termination, cancellation or nonrenewal; or
 - (c) In not less than fifteen (15) days prior to the effective date of ~~a[such]~~ termination, cancellation, or nonrenewal with respect to any of the following:
 1. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;
 2. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;
 3. Fraudulent misrepresentation by the new motor vehicle dealer to the manufacturer or distributor which is material to the franchise;
 4. Conviction of the new motor vehicle dealer, or any owner or operator thereof, of any felony which is punishable by imprisonment; or
 5. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;
 - (d) In not less than one hundred eighty (180) days prior to the effective date of ~~a[such]~~ termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.
- (5) Notification under this section shall be in writing by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:
 - (a) A statement of intent to terminate, cancel, or not to renew the franchise; and
 - (b) A statement of the reasons for the termination, cancellation, or nonrenewal; and
 - (c) The date on which ~~the[such]~~ termination, cancellation, or nonrenewal takes effect.
- (6) Upon the termination, nonrenewal, or cancellation of any franchise, pursuant to this section, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:
 - (a) New current model year motor vehicle inventory which has been acquired from the manufacturer, and which has not been damaged or altered while in the dealer's possession;
 - (b) Supplies and parts which have been acquired from the manufacturer;
 - (c) Equipment and furnishings provided the new motor vehicle dealer purchased from the manufacturer or its approved sources; and
 - (d) Special tools.

~~[Such]~~ Fair and reasonable compensation shall be paid by the manufacturer within ninety (90) days of the effective date of termination, cancellation, or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.
- (7) In the event of a termination, cancellation, or nonrenewal under this section, and the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, or owns the dealership facilities, the manufacturer shall pay a reasonable rent to the dealer in accordance with and subject to subsection (8) of this section.

- (8) (a) ~~[Such]~~ Reasonable rental value shall be paid only to the extent the dealership premises are recognized in the franchise and only if they are:
1. Used solely for performance in accordance with the franchise; and
 2. Not substantially in excess of those facilities recommended by the manufacturer.
- (b) If the facilities are owned by the dealer, the manufacturer will either:
1. Locate a purchaser who will offer to purchase the dealership facilities at a reasonable price; or
 2. Locate a lessee who will offer to lease the premises for a reasonable term at a reasonable rent; or
 3. Failing the foregoing, lease the dealership facilities at a reasonable rental value for one (1) year.
- (c) If the facilities are leased by the dealer, the manufacturer will either:
1. Locate a tenant or tenants satisfactory to the lessor, who will sublet or assume the balance of the lease; or
 2. Arrange with the lessor for the cancellation of the lease without penalty to the dealer; or
 3. Failing the foregoing, lease the dealership facilities at a reasonable rent for one (1) year.
- (d) The manufacturer shall not be obligated to provide assistance under this section if the dealer:
1. Fails to accept a bona fide offer from a prospective purchaser, sublessee or assignee; or
 2. Refuses to execute a settlement agreement with the lessor if ~~the[such]~~ agreement would be without cost to the dealer; or
 3. Fails to make a written request for assistance under this section within one (1) month of the termination, cancellation, or nonrenewal.
- (e) If, in an action for damages under this section, the manufacturer or distributor fails to prove either that the manufacturer or distributor has acted in good faith or that there was good cause for the franchise termination, cancellation, or nonrenewal, then the manufacturer or distributor may terminate, cancel, or fail to renew the franchise upon payment to the new motor vehicle dealer of an amount equal to the value of the dealership as an ongoing business location.

(9) Notice of termination to a dealer shall entitle the dealer to continue the franchise and the dealer may attempt to sell the franchise until all of the dealer's appeal rights have been exhausted.

Section 4. KRS 190.046 is amended to read as follows:

- (1) Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsibility for and shall defend, indemnify, and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, recall repairs or modifications or factory authorized or directed repairs, or lawsuits resulting from warranty defects, which shall include structural or production defects; defects in the assembly; or design of motor vehicles, parts, accessories; or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.
- (2) In the determination of what constitutes "reasonable compensation" under this section, the principal factor to be considered shall be the amount of money that the dealer is charging its other customers for the same type service or repair work. Other factors may be considered, including the compensation being paid by other manufacturers or distributors to their dealers for work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business. "Reasonable compensation" shall include diagnosing the defect; repair service; labor; parts and administrative and clerical costs. The compensation of a dealer shall not be less than the amount charged by the dealer for like services and parts, which minimum compensation for parts shall be dealer cost plus thirty percent (30%) gross profit, to retail customers for nonwarranty service and repairs, or less than the amounts indicated for work on the schedule of warranty compensation required to be filed by the manufacturer with the commission as a part of the manufacturer's license application by KRS 190.030.
- (3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or delay reimbursement of payment to the dealer beyond thirty-five (35) days from the submission by mail of a valid warranty claim. If a valid warranty claim is not paid within forty-five (45) days, the dealer may give the manufacturer one (1) copy of the dealer's related repair order bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work. If, after fifteen (15) days, the valid warranty claim is still not paid, the dealer

may deduct a like amount from any moneys due or owing to the manufacturer or distributor. The dealer shall hold the defective part for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the warranty claim is submitted. The manufacturer or distributor shall not unfairly discriminate against any dealer in the application of warranty, policy, and procedure or deny any valid warranty order claim submitted by a franchised dealer within thirty (30) days from completion of the work or longer if existing manufacturer-dealer relationships apply. Upon the written request of the dealer for valid reasons, the manufacturer shall extend the submission time. Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.

(4) All audits by a manufacturer shall be limited to a period of one (1) year prior to the date of the audit.

Section 5. KRS 190.0491 is amended to read as follows:

- (1) "Delivery" of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section shall be accomplished by the:
 - (a) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer's place of business or designated place of delivery, and
 - (b) The giving of notice of ~~the[such]~~ tender of the motor vehicle and documents to the dealer.
- (2) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:
 - (a) Notify the manufacturer or distributor of ~~the[such]~~ damage within three (3) working days of the occurrence of the delivery of the motor vehicle as defined in subsection (1) of this section; and
 - (b) ~~Must~~ Request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

~~[Such]~~ Notification of damage by the dealer must be by certified mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States Postal Service.
- (3) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of ~~the[any such]~~ damage within three (3) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for ~~the[such]~~ damage to the motor vehicle. In determining when ~~the[such]~~ notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States Postal Service indicated on the notice of delivery returned to the dealer shall be controlling.
- (4) In computing the lapse of three (3) working days under this section, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, or the day of notification of the damage to the manufacturer or distributor by the dealer, as described in subsection (3) of this section, ~~shall[is] not[is to]~~ be included, but the last working day of the period so computed ~~shall[is to]~~ be included.
- (5) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in subsection (2) of this section, excluding damage to glass, tires, and bumpers when replaced by identical manufacturer's original equipment and any damage not exceeding six percent (6%) of the sticker price of the vehicle, the occurrence and extent of ~~the[such]~~ damage must be disclosed by the dealer to the consumer, and upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer and/or dealer, must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards; if the dealer makes the certification he shall be indemnified by the manufacturer. Upon ~~this[such]~~ certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.
- (6) Whenever a motor vehicle is damaged resulting in repairs or repair estimates that exceed one thousand dollars (\$1,000)~~three hundred dollars (\$300)~~ after delivery to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, but before sale by the dealer to the consumer, the occurrence and extent of ~~the[such]~~ damage must be disclosed by the dealer to the consumer prior to ~~a[such]~~ sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards. Upon ~~this[such]~~ certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.
- (7) Notwithstanding the terms of any franchise agreement, it shall be a violation of this section for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement agreed to in writing by the manufacturer for damages, including, but not limited to, court costs and reasonable attorneys' fees of the new motor vehicle dealer, arising out of complaints, claims, or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or rescission of the sale as is defined in KRS 355.2-608, to the extent that the judgment or settlement agreed to in writing by the manufacturer relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer, beyond the control of the dealer.

Section 6. KRS 190.070 is amended to read as follows:

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- (1) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative licensed under this chapter to require any new motor vehicle dealer in the Commonwealth:
- (a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliances, equipment, or any other product not required by law, which shall not have been voluntarily ordered by the new motor vehicle dealer; except that this section is not intended to modify or supersede any terms or provisions of the franchise requiring new motor vehicle dealers to market a representative line of those motor vehicles which the manufacturer or distributor is publicly advertising.
 - (b) To order or accept delivery of any new motor vehicle with special features, appliances, accessories, or equipment not included in the list price of ~~the[such]~~ motor ~~vehicle[vehicles]~~, as publicly advertised by the manufacturer or distributor.
 - (c) To order for any person any parts, accessories, equipment, machinery tools, appliance, or any commodity whatsoever not required in connection with a recall campaign.
 - (d) To participate monetarily in an advertising campaign or contest, any promotional materials, training materials, showroom or other display decorations, or materials, at the expense of the dealer, without the consent of the dealer.
 - (e) To enter into any agreement with the manufacturer, distributor, factory branch, or factory representative, or to do any other act prejudicial to the new motor vehicle dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and the manufacturer, distributor, factory branch, or factory representative. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of ~~the dealer's[such]~~ franchise, or contractual agreement shall not constitute a violation of this law.
 - (f) To change the capital structure of the dealership, or the means by or through which the dealer finances the operation of the dealership, provided that the dealership at all times meets any reasonable capital standards agreed to by the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles.
 - (g) To refrain from participation in the management or investment in, or the acquisition of any other line of new motor vehicle or related products; provided, however, that this section does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles, and that the new motor vehicle dealer remains in substantial compliance with the terms and conditions of the franchise and with any reasonable facility requirements of the manufacturer, and no change is made in the principal management of the new motor vehicle dealership.
 - (h) To change location of the dealership, or to, during the course of the agreement, make any substantial alterations to the dealership premises, when to do so, would be unreasonable in light of the current economic, political, and social considerations.
 - (i) To prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law, or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the Commonwealth or the United States of America, or to the commissioner, if ~~the[such]~~ referral would be binding upon the dealer.
 - (j) To establish or maintain exclusive facilities, personnel, display space, or signage for a new motor vehicle make or line.**
 - (k) To expand facilities without making available a sufficient supply of new motor vehicles to support the expansion in light of the market and economic conditions.**
- (2) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative:
- (a) To delay, refuse, or fail to deliver motor vehicles, or vehicle parts or accessories in reasonable quantities relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, and within a reasonable time, but in any case no more than sixty (60) days, after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts, or accessories to new vehicles as are covered by ~~the[such]~~ franchise, if ~~the[such]~~ vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within sixty (60) days, without cause. This section is not violated, however, if ~~the[such]~~ failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative.
 - (b) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the relevant market areas.
 - (c) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall **not** be ~~a[no]~~ transfer or assignment of the dealer's franchise without the consent of

the manufacturer or distributor, which consent shall not be unreasonably withheld.

- (d) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and ~~the~~~~[such]~~ other person, other than for compensation for services rendered, unless ~~the~~~~[such]~~ benefit is promptly accounted for, and transmitted to, the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles.
- (e) To increase prices of motor vehicles which the dealer had ordered for private retail customers prior to the dealer's receipt of the written official price increase notification, a sales contract signed by a private retail consumer shall constitute evidence of each ~~[such]~~ order, provided that the vehicle is in fact delivered to the customer. In the event of manufacturer price reductions, the amount of ~~a~~~~[any such]~~ reduction received by a dealer shall be passed on to the private retail consumer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by the following shall not be subject to the provisions of this section:
 - 1. The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;
 - 2. Revaluation of the United States dollar, in the case of foreign-make vehicles or components;
 - 3. Increased transportation charges due to an increase in the rate charged by common carrier or transporter.
- (f) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the state or any political subdivision thereof, without making the same offer, upon written request, to all other dealers in the same line make within the relevant market area.
- (g) To release to any outside party, except under subpoena, any administrative, judicial or arbitration proceedings, or any business, financial, or personal information which may be, from time to time, provided by the dealer to the manufacturer, without the express written consent of the dealer.
- (h) To deny any dealer the right of free association with any other dealer for any lawful purpose.
- (i) To establish or maintain a relationship, on the part of a manufacturer, distributor, factory branch, or factory representative, where the voting rights exceed a simple majority.
- (j) To own, operate, or control any motor vehicle dealership in the Commonwealth; however, this subsection shall not prohibit:
 - 1. The operation by any manufacturer of a dealership for a temporary period, not to exceed one (1) year, during the transition from one (1) owner to another;
 - 2. The ownership or control of a dealership by a manufacturer while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
 - 3. The ownership, operation, or control of a dealership by a manufacturer if the licensor determines after a hearing at the request of any party, that there is not a dealer who is independent of the manufacturer available in the community or trade area to own and operate the franchise in a manner consistent with the public interest.
- (k) To compete without good faith with a new motor vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, distributor, factory branch, or factory representative in the relevant market area. A manufacturer, distributor, factory branch, or factory representative shall not, however, be deemed to be competing when operating a dealership, either temporarily for a reasonable period, not to exceed one (1) year, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment, subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.
- ~~(l)(4)~~ To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new motor vehicle dealers to make warranty adjustment with retail customers.
- ~~(m)(4)~~ To fail to give consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state; provided that consent may be withheld when in light of other circumstances, granting the consent would be unreasonable.
- ~~(n)(4)~~ To fail to be licensed as provided in this chapter, and to maintain a bond in an amount as determined by this chapter.
- (3) It shall be unlawful for a manufacturer, either directly or indirectly, or in combination with or through any subsidiary or affiliated entity, to discriminate in favor of one (1) dealer against another dealer holding a franchise for the same line make of motor vehicle by furnishing to only one (1) dealer any of the following:
 - (a) Any vehicle, part, or other product that is not available to each dealer at the same price, including discounts,

rebates, incentives, or other payments or allowances affecting the net price of the product;

- (b) Any vehicle, part, or other product that is not made available to each dealer in quantities proportionate to the demand for the vehicle, part, or other product;
 - (c) Any vehicle, part, or other product that is not made available to each dealer on comparable delivery terms, including time of delivery after placement of an order;
 - (d) Any promotional or advertising payment or allowance that is not made available to each dealer on proportionally equal terms;
 - (e) Any opportunity to purchase or lease from the manufacturer the dealer's facility that is not made available to each dealer on terms proportionate to the respective values of its facilities;
 - (f) Any personnel training that is not made available to each dealer on proportionally equal terms;
 - (g) Any inventory or other financing that is not made available to each dealer on proportionally equal terms, except that a manufacturer, subsidiary, or affiliated entity shall not be obligated to make available financing to a dealer who does not meet reasonable credit standards uniformly applied by the manufacturer, subsidiary, or affiliated entity;
 - (h) Any opportunity to perform work for which the dealer is entitled to be compensated under this chapter that is not made available to each dealer under uniformly applied standards;
 - (i) Any opportunity to sell products or services distributed by the manufacturer for resale in connection with the line make of the motor vehicle covered by the franchise that is not made available to each dealer on proportionally equal terms;
 - (j) Any opportunity to establish an additional sales, service, or parts outlet that is not made available to each dealer in whose relevant market area the sales, service, or parts outlet will be located;
 - (k) Any information concerning the manufacturer's products, prices or other terms of sale, or promotional programs that is not contemporaneously furnished to the dealer;
 - (l) Any improvement to, or payment to the dealer for an improvement to, the dealer's facilities that is not made available to each dealer on proportionally equal terms;
 - (m) Any opportunity to sell or assign retail installment contracts or consumer leases to the manufacturer or the manufacturer's sales finance company subsidiary that is not made available to each dealer on proportionally equal terms, except that a manufacturer or sales finance company shall not be obligated to purchase any retail installment contract or consumer lease that does not meet reasonable credit terms uniformly applied by the manufacturer or sales finance company subsidiary;
 - (n) Any product assistance, service, or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms; or
 - (o) Any payment for any service or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms.
- (4) It shall not be a defense to an alleged violation of subsection (3) of this section, that an item or opportunity was offered to a dealer if the offer was conditioned upon the dealer meeting one (1) or more requirements that are not reasonable and necessary to fulfill the dealer's obligations under the franchise. The manufacturer shall have the burden of proving that any requirement upon which an offer was conditioned was reasonable and necessary to fulfill the dealer's obligations under the franchise when the offer was made. A requirement shall not be found to be reasonable and necessary to fulfill the dealer's obligations under the franchise if the manufacturer cannot prove that it was within the control of each dealer to meet the requirement imposed on the dealer as a condition of the offer.
- (5) A dealer who alleges a good faith belief that the dealer has been, or is being, discriminated against in violation of subsection (3) of this section, may demand in writing that the manufacturer furnish the dealer with pertinent information reasonably necessary for the dealer to determine if discrimination exists. If the manufacturer fails to furnish the dealer with the information demanded within thirty (30) days of the manufacturer's receipt of the dealer's written demand, the manufacturer shall have, in any subsequent legal proceeding, the burden of proving that the alleged violation has not occurred.
- (6) Any dealer who is discriminated against by a manufacturer in violation of subsection (3) of this section shall recover three (3) times an amount equal to the value of what the dealer would have received if the manufacturer had complied with subsection (3) of this section upon furnishing any item or opportunity to another dealer.

Section 7. KRS 186A.540 is amended to read as follows:

An individual or a dealer required to be licensed pursuant to KRS Chapter 190 shall disclose all damages to a motor vehicle which result in repairs or repair estimates that exceed one thousand dollars (\$1,000)~~three hundred dollars (\$300)]~~ and that occur while the motor vehicle is in his possession and prior to delivery to a purchaser. Disclosure shall be in writing and shall require the purchaser's signature acknowledging the disclosure of damages.

The Committee on Licensing and Occupations reported **HB 103**, **HB 106**, and **HB 219**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 103, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.728 is amended to read as follows:

All law enforcement agencies and investigative bodies shall notify the ~~Department~~~~(Division)~~ of Charitable Gaming of any investigation or prosecution of any violation of the charitable gaming laws as soon as reasonably possible after commencing the investigation or prosecution and shall coordinate any investigation with the ~~department~~~~(division)~~.

Section 2. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "~~Department~~~~(Division)~~" means the ~~Department~~~~(Division)~~ of Charitable Gaming within the Public Protection and Regulation~~(Justice)~~ Cabinet;
- (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;
- (3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;
- (4) "Bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;
- (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;
- (6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;
- (7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;
- (8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the ~~department~~~~(division)~~ are conducted, and examples of which include fairs, festivals, carnivals, bazaars, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding;
- (9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:
 - (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
 - (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;
- (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include a resident printer who prints raffle tickets at the request of a licensed charitable organization;
- (11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;
- (12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;
- (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;
- (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;
- (15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils,

daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

- (16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;
- (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the ~~department~~[division];
- (18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;
- (19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, including bingo held at a charity fundraising event;
- (20) "Immediate family" means:
 - (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses; and
- (21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility.
- (22) "Secretary" means the secretary of the Public Protection and Regulation Cabinet; and**
- (23) "Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection and Regulation Cabinet.**

Section 3. KRS 238.510 is amended to read as follows:

- (1) The ~~Department~~[Division] of Charitable Gaming is created as a ~~department~~[division] within the **Public Protection and Regulation**[Justice] Cabinet. The ~~department~~[division] shall license and regulate the conduct of charitable gaming and license and regulate charitable organizations that desire to engage in charitable gaming, charitable gaming facilities, manufacturers, and distributors in the Commonwealth of Kentucky in accordance with the provisions of this chapter.
- (2) **The department shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor. The commissioner shall employ such staff**~~secretary of justice shall employ a division director, an assistant director, and other staff~~ as may be necessary to administer and enforce the provisions of this chapter.
- (3) All ~~department~~[division] staff shall be classified and employed in accordance with applicable personnel requirements of the Personnel Cabinet **in accordance with**~~The division director shall be a nonmerit employee and all other staff shall be merit employees with all rights and privileges afforded under~~ KRS Chapter 18A.
- (4) No employee of the ~~department~~[division] during his or her term of employment shall be an officer in a charitable organization that is licensed to conduct charitable gaming or be involved in the conduct of charitable gaming as a member of a licensed charitable organization. No employee of the ~~department~~[division] during his or her term of employment shall be licensed as a manufacturer, distributor, or charitable gaming facility, or have a financial interest in any business that is licensed as a manufacturer, distributor, or charitable gaming facility.

Section 4. KRS 238.515 is amended to read as follows:

The ~~department~~[division] shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the ~~department~~[division] shall have the following powers and duties:

- (1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;
- (2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;
- (3) Prescribing reasonable fees for licenses;
- (4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;
- (5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the ~~department~~[division] shall have the authority to issue administrative subpoenas and summonses. The ~~department~~[division] shall also establish toll-free telephone service for receiving complaints and inquiries;
- (6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

- (7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;
- (8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the ~~department~~[division]; and
- (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter.

Section 5. KRS 238.520 is amended to read as follows:

- (1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:
 - (a) The secretary of the Justice Cabinet or his designee;
 - (b) The Attorney General or his designee;
 - (c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;
 - (d) One (1) representative from the Kentucky Charitable Gaming Association;
 - (e) One (1) certified public accountant; and
 - (f) Four (4) members selected from the public at large.

The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

- (2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.
- (3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the ~~department~~[division] and to the General Assembly ***but shall not establish policy or become directly involved in***~~to assist in establishing effective policy for~~ the licensing and regulation of charitable gaming ***by the department***.
- (4) The commission shall meet quarterly or as otherwise directed by the ~~department~~[division]. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 6. KRS 238.525 is amended to read as follows:

- (1) Licenses shall be issued by the ~~department~~[division] on an annual or biennial basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the ~~department~~[division] in any manner it deems appropriate to facilitate efficient licensing. The ~~department~~[division] shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.
- (2) The ~~department~~[division] may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.
- (3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the ~~department~~[division], with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the ~~department~~[division] with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The ~~department~~[division] shall require the fingerprinting of all applicants for licensure under KRS 238.530 and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The ~~department~~[division] may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.
- (4) No applicant shall be licensed if an individual associated with the applicant in a capacity listed in subsection (3) of this section or the applicant itself has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any

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state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

- (5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The department~~[division]~~ may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.
- (6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the department~~[division]~~ in writing within thirty (30) days of the date the change occurred.

Section 7. KRS 238.530 is amended to read as follows:

- (1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the department~~[division]~~ as a distributor. The department~~[division]~~ shall charge a license fee not to exceed one thousand dollars (\$1,000).
- (2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the department~~[division]~~ as a manufacturer. The department~~[division]~~ shall charge a license fee not to exceed five hundred dollars (\$500).
- (3) No person who is licensed as a charitable organization, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer. No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.
- (4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the department~~[division]~~ and shall submit as part of the application process the following:
 - (a) The full name, address, date of birth, and Social Security number of the applicant;
 - (b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;
 - (c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;
 - (d) Federal employer tax number;
 - (e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;
 - (f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and
 - (g) Any other information the department~~[division]~~ deems appropriate.
- (5) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the department~~[division]~~ to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be available for inspection by the department~~[division]~~ at reasonable times, and all records shall be maintained for a minimum of three (3) years. The department~~[division]~~ may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the department~~[division]~~.
- (6) A distributor who does not receive payment in accordance with the terms of its sales or lease agreement from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the department~~[division]~~ of the delinquency in writing in a form and manner prescribed by the department~~[division]~~. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the department~~[division]~~ of the delinquency in writing in a form and manner prescribed by the department~~[division]~~.
- (7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.
- (8) A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor or a charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter.
- (9) A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

- (10) No officer, owner, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates, shall, with respect to a licensed charitable organization:
- (a) Manage or otherwise be involved in the conduct of charitable gaming;
 - (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
 - (c) Handle any moneys generated in the conduct of charitable gaming;
 - (d) Advise a licensed charitable organization on the expenditure of net receipts;
 - (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
 - (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
 - (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;
 - (h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;
 - (i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility; or
 - (j) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 8. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the ~~department~~division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
- (a) Bingo in which the gross receipts do not exceed a total of fifteen thousand dollars (\$15,000) per year;
 - (b) A raffle or raffles for which the gross receipts do not exceed fifteen thousand dollars (\$15,000) per year; and
 - (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed fifteen thousand dollars (\$15,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed fifteen thousand dollars (\$15,000).

- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the ~~department~~division in writing, on a form issued by the ~~department~~division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter, except:
- (a) Payment of the fee imposed under the provisions of KRS 238.570; and
 - (b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.
- (3) If an organization exceeds the limit imposed by any subsection of this section it shall:
- (a) Report the amount to the ~~department~~division; and
 - (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the ~~department~~division shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the ~~department~~division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (6) If the ~~department~~division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.
- (8) In order to qualify for licensure, a charitable organization shall:
- (a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or
 - 2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

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- (b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;
 - (c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the ~~department~~[division], reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and
 - (d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the ~~department~~[division]; except that up to three(3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.
- (9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:
- (a) The name and address of the charitable organization;
 - (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;
 - (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
 - (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;
 - (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;
 - (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
 - (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
 - (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;
 - (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
 - (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;
 - (k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the ~~department~~[division]; and
 - (l) Any other information the ~~department~~[division] deems appropriate.
- (10) The ~~department~~[division] may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- (11) The ~~department~~[division] shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.
- Section 9. KRS 238.536 is amended to read as follows:
- (1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. All fees paid to the

~~department~~~~division~~ during the calendar year shall be excluded from the calculation of percentage retained.

- (2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:
 - (a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of one (1) year and shall be required to submit to the ~~department~~~~division~~ an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the probationary period;
 - (b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall have its license suspended for a period of one (1) year; and
 - (c) If the percentage retained falls below thirty percent (30%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive time, the licensee shall have its license suspended for a period of two (2) years.
- (3) Any licensee that has had its license suspended under the provisions of subsection (2)(b) or (c) of this section shall be required to submit to the ~~department~~~~division~~ an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license.
- (4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke or deny its license for failure to meet the forty percent (40%) retention threshold prior to April 1, 1998, may petition the ~~department~~~~division~~ for reconsideration of its action or proposed action. Upon petition for reconsideration, the ~~department~~~~division~~ shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The ~~department~~~~division~~ shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

Section 10. KRS 238.540 is amended to read as follows:

- (1) Charitable gaming shall be conducted by a licensed charitable organization at only one (1) location and at the date and time which shall be stated on the license. A license holder shall notify the ~~department~~~~division~~ at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the ~~department~~~~division~~ shall be received by the licensee prior to the conduct of charitable gaming at a new location.
- (2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.
- (3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ~~department~~~~division~~, law enforcement officials, and other interested officials.
- (4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. Any effort or attempt to disguise any other type of compensation shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.
- (5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.
- (6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.
- (7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.
- (8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number.

Section 11. KRS 238.545 is amended to read as follows:

- (1) A licensed charitable organization shall be limited by the following:
 - (a) In the conduct of bingo, to two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall

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award prizes for bingo that exceed five thousand dollars (\$5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars (\$10);

- (b) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;
 - (c) Charity game tickets may be sold, with prior approval of the department~~(division)~~:
 - 1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or
 - 2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and
 - (d) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the department~~(division)~~, only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The department~~(division)~~ shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.
- (2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars (\$599) in value, not including the value of cumulative or carryover prizes awarded in seal card games. Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars (\$2,400). Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars (\$50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement. Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the department~~(division)~~. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.
- (3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.
- (4) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the department~~(division)~~. No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars (\$100). Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The department~~(division)~~ shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547.
- (5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

Section 12. KRS 238.550 is amended to read as follows:

- (1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization. All adjusted gross receipts shall be deposited within two (2) business days into a checking account devoted exclusively to charitable gaming. All payments for charitable gaming expenses, prizes purchased, and any charitable donations from charitable gaming receipts shall be made from this checking account and any payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The department~~(division)~~ may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.
- (2) Accurate records and books shall be maintained by each licensed charitable organization for a period of three (3) years. Department~~(Division)~~ staff shall have access to these records at reasonable times. All licensed charitable organizations shall be required to submit reports to the department~~(division)~~ at least quarterly. These reports shall include, but shall not be limited to, the following information:

- (a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;
 - (b) The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated, the names of donors, and the fair market value of the donated prizes;
 - (c) The names and addresses of all persons who are winners of prizes of six hundred dollars (\$600) or more;
 - (d) All expenses paid and the names and addresses of all persons to whom expenses were paid;
 - (e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and
 - (f) Any other information the department~~(division)~~ deems appropriate.
- (3) No licensed charitable organization shall incur expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following expenses:
- (a) Charitable gaming supplies and equipment;
 - (b) Rent;
 - (c) Utilities;
 - (d) Insurance;
 - (e) Advertising;
 - (f) Janitorial services;
 - (g) Bookkeeping and accounting services;
 - (h) Security services;
 - (i) Membership dues for its participation in any charitable gaming trade organization; and
 - (j) Any other expenses the department~~(division)~~ may determine by administrative regulation to be legitimate.

Section 13. KRS 238.555 is amended to read as follows:

- (1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The department~~(division)~~ shall charge a license fee not to exceed two thousand five hundred dollars (\$2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors. Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.
- (2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:
- (a) The address of the facility;
 - (b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;
 - (c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;
 - (d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;
 - (e) A copy of the lease agreement used by the applicant; and
 - (f) Any other information the department~~(division)~~ deems appropriate.
- (3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:
- (a) Manage or otherwise be involved in the conduct of charitable gaming;
 - (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
 - (c) Handle any moneys generated in the conduct of charitable gaming;
 - (d) Advise a licensed charitable organization on the expenditure of net receipts;
 - (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
 - (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
 - (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;
 - (h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or
 - (i) Donate or give any prize to be awarded in the conduct of charitable gaming.
- (4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to

provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The department~~(division)~~ by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the department~~(division)~~. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

- (5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:
 - (a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;
 - (b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.
- (6) A licensed charitable gaming facility shall report at least quarterly to the department~~(division)~~ and shall provide any information concerning its operation that the department~~(division)~~ may require.
- (7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.
- (8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.
- (9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the department~~(division)~~, law enforcement officials, and other interested officials.

Section 14. KRS 238.560 is amended to read as follows:

- (1) The department~~(division)~~ may investigate allegations of wrongdoing upon complaint or upon its own volition. The department~~(division)~~ by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.
- (2) In carrying out its enforcement responsibilities, the department~~(division)~~ may:
 - (a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;
 - (b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;
 - (c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and
 - (d) Conduct in-depth audits and investigations, when warranted.
- (3) The department~~(division)~~ may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder. The department~~(division)~~ may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand, and levy a fine. An administrative fine shall not exceed one thousand dollars (\$1,000) for each offense. The department~~(division)~~ shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.
- (4) The department~~(division)~~ may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected.
- (5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the department~~(division)~~ in carrying out its enforcement responsibilities.
- (6) The department~~(division)~~ shall report any activity or action which would constitute a criminal offense to the appropriate

authorities in the county where the activity or action occurred and to the Attorney General.

Section 15. KRS 238.565 is amended to read as follows:

- (1) A license holder may appeal any administrative action taken under KRS 238.560. A license holder shall be notified in writing of any action to be taken against him. The notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. The notification shall specify the charges against the license holder and advise him of his right to appeal the decision within ten (10) days of the date of receipt of the notification.
- (2) Upon receipt of an appeal, the ~~department~~~~[division]~~ shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
- (3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the ~~commissioner~~~~[secretary of justice through the division director]~~ a recommended order based on findings of fact and conclusions of law. Within thirty (30) days of receipt of the recommended order, the ~~commissioner~~~~[secretary of justice]~~ shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.
- (4) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of a summary suspension. The ~~department~~~~[division]~~ may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.
- (5) A final order of the commissioner may be appealed to Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 16. KRS 238.570 is amended to read as follows:

- (1) A fee is imposed on charitable gaming in the amount of four-tenths of one percent (0.4%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the ~~department~~~~[division]~~ all moneys due on a quarterly basis.
- (2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Public Protection and Regulation~~[Justice]~~ Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the ~~department~~~~[division]~~ shall be deposited in this account. Moneys in this account shall be expended by the ~~department~~~~[division]~~ only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the ~~department~~~~[division]~~ shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.
- (3) If the provision of subsection (1) of this section that imposes a fee of four-tenths of one percent (0.4%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.
 - (a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the ~~department~~~~[division]~~.
 - (b) The ~~department~~~~[division]~~ may require a bond from distributors in accordance with the administrative regulations promulgated by the ~~department~~~~[division]~~.
- (4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 17. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

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I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.**
7. Cabinet for Families and Children:
 - (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.

- (f) Office of Program Support.
- (g) Office of Family Resource and Youth Services Centers.
- (h) Office of Technology Services.
- (i) Office of the Ombudsman.
- (j) Office of Aging Services.
- 8. Cabinet for Health Services.
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
- 9. Finance and Administration Cabinet:
 - (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
- 10. Labor Cabinet:
 - (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.

- (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.

- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 18. The General Assembly hereby confirms Executive Order 98-905 of the Public Protection and Regulation Cabinet, to the extent it is not otherwise confirmed by this Act. This executive order creates the Department of Charitable Gaming within the Public Protection and Regulation Cabinet, including the Office of General Counsel, Division of Licensing and Compliance, and Division of Enforcement; and it abolishes the Division of Charitable Gaming within the Justice Cabinet and transfers all personnel, files, equipment, and funding to the Department of Charitable Gaming within the Public Protection and Regulation Cabinet.

HB 106, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 98-1566, dated November 25, 1998, relating to the Public Protection and Regulation Cabinet, Kentucky Racing Commission, that: creates the Division of Racing/Security to provide supervision and oversight functions of horse racing in accordance with KRS Chapter 230; abolishes the Division of Thoroughbred Racing, transferring all personnel, records, files, equipment, and funds to the Division of Racing/Security; abolishes the Division of Standardbred and Quarter Horse Racing, transferring all personnel, records, files, equipment, and funds to the Division of Racing/Security; and abolishes the Division of Security, transferring all personnel, records, files, equipment, and funds to the Division of Racing/Security. The newly created Division of Racing/Security shall be composed of such personnel, records, files, equipment and funds as have been transferred pursuant to Executive Order 98-1566, and as may be set forth by subsequent executive order of the Governor, or administrative order of the commission.

HB 219, AN ACT relating to ophthalmic dispensers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 326.020 is amended to read as follows:

- (1) There is hereby created a board of ophthalmic dispensers to be known as the "Kentucky Board of Ophthalmic Dispensers." It shall consist of five (5) members to be appointed by the Governor, one (1) member of which shall be a licensed medical physician or osteopath experienced in the treatment and examination of eyes and one (1) member of which shall be a licensed optometrist. Two (2) members shall be licensed ophthalmic dispensers. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. They shall not pass upon their own qualifications. The board shall elect one (1) of its members chairman and one (1) member secretary-treasurer. These officers shall serve at the pleasure of the board.
- (2) Members shall serve for a period of four (4) years from the date of their appointment and qualification. At the expiration of the term of office of any member, the Governor shall appoint a successor for a term of four (4) years.
- (3)
 - (a) The board may promulgate administrative regulations to carry out the purposes and provisions of this chapter, including the licensing of apprentice ophthalmic dispensers and the adoption of a program for continuing education for all licensees.
 - (b) No licensee shall be permitted to renew his or her license, unless the minimum annual continuing education requirements have been completed. No program for continuing education shall contain, as a prerequisite for license renewal, a requirement for more than a total of six (6) credit hours per year for ophthalmic dispenser licensees, or four (4) credit hours per year for apprentice ophthalmic dispenser licensees.

- (4) Board members shall receive fifty dollars (\$50) per day for attending board meetings. Board members shall also be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.
- (5) The board may:
- (a) Revoke, suspend, or refuse to issue or renew licenses; impose probationary or supervisory conditions upon licensee; or issue written reprimands to licensees, in accordance with Section 4 of this Act;
 - (b) Impose administrative fines in accordance with Section 5 of this Act; or
 - (c) Take any other action or combination of actions regarding licenses, licensees, or apprenticeships authorized by this chapter.
- (6) For the purpose of enforcing the provisions of this chapter, the board may have the authority to administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence.
- (7) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 326.030.

Section 2. KRS 326.030 is amended to read as follows:

~~[On and after January 1, 1955,]~~ No person shall engage in the practice of ophthalmic dispensing unless he or she is duly licensed to practice medicine, osteopathy, or optometry in this Commonwealth or unless he or she is the holder of a license as an ophthalmic dispenser; provided, this section shall not be so construed as to prohibit a firm or corporation from operating a business which comes within the meaning of ophthalmic dispensing, if each of its employees either (1) coming in contact with the public and performing for the public any service or services included within the meaning of ophthalmic dispensing, or (2) otherwise performing any work or service required by this chapter to be performed by an ophthalmic dispenser, is the holder of a license as an ophthalmic dispenser.

Section 3. KRS 326.040 is amended to read as follows:

A license as an ophthalmic dispenser shall be issued by the board to any person who pays a fee of fifty dollars (\$50)~~[\$25]~~ and submits evidence under oath satisfactory to the board:

- (1) That he or she is more than eighteen (18) years of age and of good moral character;
- (2) That he or she has graduated from high school or possesses a General Educational Development (GED) certificate;
- (3) That he or she has at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of an ophthalmic dispenser, physician, osteopath, or optometrist, or is a graduate of an accepted school of ophthalmic dispensing;
- ~~(4)~~~~(3)~~ That he or she has passed a satisfactory examination in ophthalmic dispensing approved~~[given]~~ by the board.

Section 4. KRS 326.090 is amended to read as follows:

- (1) The board may refuse to issue a license, or may suspend,~~[or]~~ revoke, impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a~~[any]~~ license to practice ophthalmic dispensing or an apprentice license if the applicant or licensee has~~[for any of the following causes]:~~
- ~~(a)~~~~(1)~~ Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction~~[The conviction of a felony involving moral turpitude];~~
- ~~(b)~~ Committed any unfair, false, misleading, or deceptive act or practice;
- ~~(c)~~ Been incompetent or negligent in the practice of ophthalmic dispensing;
- ~~(d)~~ Failed to comply with a lawful order of the board;
- ~~(e)~~ Aided or abetted another person in falsely procuring or attempting to procure a license;
- ~~(f)~~ Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;
- ~~(g)~~~~(2)~~ Exhibited chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies applicant or the licensee from practicing with safety to the public;
- ~~(h)~~~~(3)~~ Committed fraud or deception in the application or in the examination for the license; or
- ~~(i)~~~~(4)~~ Violated~~[Violation of]~~ this chapter or administrative regulations promulgated in accordance with this chapter.
- (2) The board may issue a written reprimand to the licensee if the board determines, based on the evidence, that a serious violation has not occurred. A copy of the written reprimand shall be placed in the permanent file of the licensee. The licensee may respond in writing to the reprimand within thirty (30) days of the reprimand. Upon receipt of the response, the board shall set aside the written reprimand and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.

Section 5. KRS 326.990 is amended to read as follows:

Any person who shall directly or indirectly engage in the practice of ophthalmic dispensing or hold himself *or herself* out to the public as being able so to do, or who shall violate any of the provisions of this chapter relating to ophthalmic dispensing, or having had his *or her* license suspended or revoked shall continue to engage in the practice of ophthalmic dispensing, or who directly or indirectly employs, permits or authorizes an unlicensed person to engage in the practice of ophthalmic dispensing shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not more than thirty (30) days, or by a fine of not less than one hundred dollars (\$100) nor more than one thousand~~hundred~~ dollars (\$1,000)~~[(\$100)]~~ or by both such fine and imprisonment, and each such violation shall be deemed a separate offense.

Section 6. The following KRS section is repealed:

326.050 Issuance of license to persons in business prior to January 1, 1955 or in Armed Forces.

The Committee Substitute No. 1 to **HB 219** is as follows:

HB 219, AN ACT relating to ophthalmic dispensers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 326.020 is amended to read as follows:

- (1) There is hereby created a board of ophthalmic dispensers to be known as the "Kentucky Board of Ophthalmic Dispensers." It shall consist of five (5) members to be appointed by the Governor, one (1) member of which shall be a licensed medical physician or osteopath experienced in the treatment and examination of eyes and one (1) member of which shall be a licensed optometrist. Two (2) members shall be licensed ophthalmic dispensers. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. They shall not pass upon their own qualifications. The board shall elect one (1) of its members chairman and one (1) member secretary-treasurer. These officers shall serve at the pleasure of the board.
- (2) Members shall serve for a period of four (4) years from the date of their appointment and qualification. At the expiration of the term of office of any member, the Governor shall appoint a successor for a term of four (4) years.
- (3)
 - (a) The board may promulgate administrative regulations to carry out the purposes and provisions of this chapter, including the licensing of apprentice ophthalmic dispensers and the adoption of a program for continuing education for all licensees.
 - (b) No licensee shall be permitted to renew his *or her* license, unless the minimum annual continuing education requirements have been completed. No program for continuing education shall contain, as a prerequisite for license renewal, a requirement for more than a total of six (6) credit hours per year for ophthalmic dispenser licensees, or four (4) credit hours per year for apprentice ophthalmic dispenser licensees.
- (4) Board members shall receive fifty dollars (\$50) per day for attending board meetings. *Board members shall also be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.*
- (5) *The board may:*
 - (a) *Revoke, suspend, or refuse to issue or renew licenses; impose probationary or supervisory conditions upon licensee; or issue written reprimands to licensees, in accordance with Section 4 of this Act;*
 - (b) *Impose administrative fines in accordance with Section 5 of this Act; or*
 - (c) *Take any other action or combination of actions regarding licenses, licensees, or apprenticeships authorized by this chapter.*
- (6) *For the purpose of enforcing the provisions of this chapter, the board may administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence.*
- (7) *The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 326.030.*

Section 2. KRS 326.030 is amended to read as follows:

~~[On and after January 1, 1955,]~~ No person shall engage in the practice of ophthalmic dispensing unless he *or she* is duly licensed to practice medicine, osteopathy, or optometry in this Commonwealth or unless he *or she* is the holder of a license as an ophthalmic dispenser; provided, this section shall not be so construed as to prohibit a firm or corporation from operating a business which comes within the meaning of ophthalmic dispensing, if each of its employees either (1) coming in contact with the public and performing for the public any service or services included within the meaning of ophthalmic dispensing, or (2) otherwise performing any work or service required by this chapter to be performed by an ophthalmic dispenser, is the holder of a license as an ophthalmic dispenser.

Section 3. KRS 326.040 is amended to read as follows:

A license as an ophthalmic dispenser shall be issued by the board to any person who pays a fee of fifty dollars (\$50)~~[\$25]~~ and submits evidence under oath satisfactory to the board:

- (1) That he *or she* is more than eighteen (18) years of age and of good moral character;
- (2) That he or she has graduated from high school or possesses a General Educational Development (GED) certificate;
- (3) That he *or she* has at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of an ophthalmic dispenser, physician, osteopath, or optometrist, or is a graduate of an accepted school of ophthalmic dispensing;
- ~~(4)(3)~~ That he *or she* has passed a satisfactory examination in ophthalmic dispensing approved~~given~~ by the board.

Section 4. KRS 326.090 is amended to read as follows:

- (1) The board may refuse to issue a license, or may suspend,~~or~~ revoke, impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a~~any~~ license to practice ophthalmic dispensing or an apprentice license if the applicant or licensee has~~for any of the following causes~~:
 - ~~(a)(1)~~ Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction~~The conviction of a felony involving moral turpitude~~;
 - ~~(b)~~ Committed any unfair, false, misleading, or deceptive act or practice;
 - ~~(c)~~ Been incompetent or negligent in the practice of ophthalmic dispensing;
 - ~~(d)~~ Failed to comply with a lawful order of the board;
 - ~~(e)~~ Aided or abetted another person in falsely procuring or attempting to procure a license;
 - ~~(f)~~ Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;
 - ~~(g)(2)~~ Exhibited chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies the applicant or the licensee from practicing with safety to the public;
 - ~~(h)(3)~~ Committed fraud or deception in the application or in the examination for the license; or
 - ~~(i)(4)~~ Violated any provisions of~~Violation of~~ this chapter or administrative regulations promulgated in accordance with this chapter.
- (2) After investigating an alleged violation and offering the licensee the opportunity to respond to the allegation, the board may issue a written reprimand to the licensee if the board determines that a violation that is not of a serious nature has occurred. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee may file a written response to the reprimand within thirty (30) days of receiving the reprimand or may request a hearing with the board. If the licensee responds to the reprimand, his or her response shall be placed in the licensee's permanent file. If the licensee requests a hearing, the board shall set aside the written reprimand, pending the outcome of a hearing by the board under the provisions of KRS Chapter 13B.

Section 5. KRS 326.100 is amended to read as follows:

- (1) The board before suspending, revoking, imposing probationary, or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or taking any combination of these actions regarding any licensee under KRS Chapter 326 shall conduct a hearing under the provisions of~~No license shall be suspended or revoked until after a hearing conducted in accordance with~~ KRS Chapter 13B, upon the request of the licensee.
- (2) After denying an application under the provisions of this chapter, the board shall grant a hearing to the denied applicant under the provisions of KRS Chapter 13B.
- (3) Any applicant aggrieved by a disciplinary action of the board may appeal~~A licensee whose license has been suspended or revoked may appeal~~ the final order of the board to the Circuit Court in the county in which the licensee is practicing in accordance with KRS Chapter 13B.

Section 6. KRS 326.990 is amended to read as follows:

Any person who shall directly or indirectly engage in the practice of ophthalmic dispensing or hold himself *or herself* out to the public as being able so to do, or who shall violate any of the provisions of this chapter relating to ophthalmic dispensing, or having had his *or her* license suspended or revoked shall continue to engage in the practice of ophthalmic dispensing, or who directly or indirectly employs, permits or authorizes an unlicensed person to engage in the practice of ophthalmic dispensing shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not more than thirty (30) days, or by a fine of not less than one hundred dollars (\$100) nor more than five~~one~~ hundred dollars (\$500)~~(\$100)~~ or by both such fine and imprisonment, and each such violation shall be deemed a separate offense.

Section 7. The following KRS section is repealed:

326.050 Issuance of license to persons in business prior to January 1, 1955 or in Armed Forces.

Calendar

HB 49, HB 51, HB 80, HB 82, HB 83, HB 84, HB 144, HB 165, HB 166, HB 168, HB 170, HB 177, HB 204, HB 213, HB 65, HB 176, HB 76, HCR 6, HB 22, HB 78, HB 90, HB 95, HB 98, HB 137, HB 159, HB 160, HB 182, HB 183, HB 184, HB 214, HB 215, and HB 265 be taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Scott moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Scott moved the adoption of the following **Legislative Citation No. 7**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays most ardent tribute to Michael Stuart Montgomery Lanham upon recently receiving the highest honor awarded graduating seniors in this country, the prestigious Rhodes Scholarship, which recognizes the superior level of academic achievement attained by this remarkable young scholar and provides him with the opportunity to study at the renowned Oxford University in England. A native of Marion County, Kentucky, and graduate of Marion County High School at the age of 14, Michael Lanham is a graduating senior at Centre College where he is pursuing degrees in music and mathematics. During his years as a student at Centre, Mr. Lanham was inducted into the Phi Beta Kappa National Honor Society, was awarded the school's most highly regarded merit scholarship and earned an internship to do research in biological mathematics at Cornell University where he worked with a team of scientists studying the AIDS virus. One of only thirty-six Rhodes Scholarships awarded in the United States this year, this high accolade reflects the tremendous hard work and perseverance that has been demonstrated by Michael Lanham and the exceptional knowledge and skill that he has achieved over the course of his academic career. Inasmuch as this impressive and talented young man has brought great honor and recognition to himself, his school and his community by his efforts in this significant endeavor, the members of this august body are indeed honored to join Representative William U. Scott in commending Michael Lanham for all that he has achieved so early in life and in extending best wishes for continued success and good fortune as he goes on to pursue his doctorate in mathematics from Oxford University. Done in Frankfort, this twelfth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 7 was adopted without objection.

Representative Stumbo requested that the House observe a moment of silence in honor of Rep. Collins' mother.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 22, HB 65, HB 78, HB 80, HB 83, HB 95, HB 98, HB 110, HB 137, HB 166, HB 168, HB 170, HB 176, HB 183, HB 184, HB 214, HB 215, and HCR 6** has been posted for passage in the Orders of the Day for January 13, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Education: **HB 76**

Appropriations and Revenue: **HB 144, HB 177, HB 182, HB 204, HB 213**

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 336, by Representative Treesh: AN ACT relating to income taxation.

HB 337, by Representative Treesh: AN ACT relating to income taxation.

HB 338, by Representative Treesh: AN ACT relating to income taxation.

HB 339, by Representative Riner: AN ACT relating to governmental ethics.

HB 340, by Representative Barrows: AN ACT relating to personnel.

HB 341, by Representatives Stumbo and Ford: AN ACT proposing an amendment to Section 112 of the Constitution of Kentucky, relating to family courts.

HB 342, by Representatives Bruce and Gooch: AN ACT relating to insurance.

HB 343, by Representatives Wilkey, Vincent, and Branham: AN ACT relating to motor vehicle insurance.

HB 344, by Representative Wilkey: AN ACT relating to Social Security numbers.

HB 345, by Representative Wilkey: AN ACT relating to adoption of children.

HB 346, by Representatives Wilkey and Palmer: AN ACT relating to utilities.

HCR 44, by Representatives Coleman, Nunn, Burch, Marzian, and Damron: A CONCURRENT RESOLUTION relating to the establishment of a task force to complete a study to identify barriers to quality end-of-life care, best practices, and strategies to improve quality of care.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Natural Resources and Environment: **HB 216, HCR 34**

Health and Welfare: **HB 81, HB 274**

Motions, Petitions, and Communications (Continued)

Representative D. Butler moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative D. Butler moved the adoption of the following **Legislative Citation No. 6**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in memory of a former colleague Marjorie Macy Crume Tobin and in expressing its deepest sympathy to all who share in the loss of this remarkable woman, the beloved wife of the late Harry Wathen Tobin; devoted mother of Myra Leigh Tobin, Linda Tobin Schrecker, Jonell Tobin and Terri Tobin Tabor; and cherished grandmother and great-grandmother. This highly-regarded citizen is remembered this day as a devoted wife, mother, grandmother, great-grandmother, a former Kentucky Legislator, succeeding her late husband in the Kentucky House of Representatives, serving from 1968 to 1972; and as a successful businesswoman and farmer in Breckinridge County. The members of this august body respectfully join with Representative Dwight Butler and Representative Gross Lindsay in paying tribute to her for the many contributions this strong and talented woman made to the Commonwealth of Kentucky, her fellow citizens and her beloved family. Done in Frankfort, this twelfth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 6 was adopted without objection.

Representative Stumbo moved the **HB 246** be reassigned to Judiciary. Agreed.

Representative P. Clark moved that **HB 276** be withdrawn. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 85, HB 86, HB 87, HB 70, HB 71, HB 52, HB 129, HB 164, HB 130, and HB 229**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 8: Representative Yonts

HB 15: Representatives Anderson, Crall, Hoover, Napier, Polston, Stumbo,
Walton

HB 30: Representative Branham

HB 45: Representative Walton
HB 49: Representative P. Clark
HB 57: Representatives Damron, Upchurch, Weaver
HB 64: Representatives Ausmus, Colter
HB 65: Representative J. Adams
HB 100: Representatives Riggs, Stewart
HB 111: Representatives Napier, Walton
HB 116: Representatives Crimm, Palumbo
HB 123: Representatives Adkins, J. Arnold, A. Arnold, Ausmus, Ballard,
C. Belcher, Bruce, Buckingham, D. Butler, Callahan, Childers,
Colter, Damron, Draud, Graham, Gray, Napier, Nesler, Palmer,
Palumbo, Stacy, Treesh, Webb, Worthington
HB 137: Representative Graham
HB 139: Representative Rader
HB 144: Representative Johns
HB 147: Representatives A. Arnold, Wayne
HB 174: Representative Colter
HB 175: Representatives J. Adams, Barrows, C. Belcher, Bowling,
Branham, Bruce, P. Clark, Crimm, Miller, Scott, Stacy, Stewart,
Upchurch, Webb, Yonts
HB 180: Representatives Haydon, Siler, Stewart
HB 181: Representatives Colter, Rader
HB 185: Representative Colter
HB 202: Representative McKee
HB 207: Representative Walton
HB 236: Representatives Allen, Ausmus, C. Belcher, D. Butler, Crimm,
Hoffman, Stewart, Thompson, J. Turner, Vincent, Walton
HB 250: Representatives J. Arnold, Haydon, Hoover, Branham, Weaver
HB 255: Representatives Ballard, Crenshaw, Stein, Stumbo
HB 258: Representative Riggs
HB 267: Representatives Siler, Stumbo
HB 270: Representatives Ausmus, Walton
HB 271: Representative Ausmus
HB 280: Representative Haydon
HB 306: Representative McKee
HB 312: Representative McKee
HB 316: Representative Weaver
HB 324: Representative Marzian

Announcements

The following meetings were announced:

Economic Development, 10:00 a.m., January 13, 2000

Judiciary, 12:00 noon, January 13, 2000, Room 131

Adjournment

Representative Stumbo moved that the House adjourn until January 13, 2000.

On the roll call the vote was **Yeas 85**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Coleman, Colter, Cornett, Crimm, Damron, DeWeese, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nunn, Palumbo, Polston, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Walton, Wayne, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 5**--Crall, Heleringer, Hoover, Stewart, Tapp.

The motion to adjourn was adopted.

JANUARY 13, 2000
EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rev. Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Collins and Cox.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 12, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Cherry moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Cherry moved the adoption of the following **Legislative Citation No. 8**.

The members of the House of Representatives of the Commonwealth of Kentucky are delighted to join Representative Mike Cherry in honoring the AYUSA International Students upon the occasion of their visit to the Capitol to witness the activities of the 2000 Regular Session of the Kentucky General Assembly. It is with great pleasure that we welcome into our midst these distinguished young ambassadors who are spending the 1999-2000 Academic Year in the United States of America through this outstanding program which promotes world peace through inter-cultural understanding. Further, it is our sincere wish that their stay in the great Bluegrass State will be both culturally and academically rewarding and filled with heartwarming hospitality. Done in Frankfort, this thirteenth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 8 was adopted without objection.

Representative Treesh moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Treesh moved the adoption of the following **Legislative Citation No. 9**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere commendation and applause to Travis Atwell for his phenomenal performance as an athlete at Hancock County High School, which culminated in his being selected by sportswriters and broadcasters around Kentucky as the 1999 Kentucky Mr. Football. The talent of Mr. Atwell is reflected by the impressive statistics he has amassed during his high school career where he played in the Single A program and under the skilled tutelage of Coach Mark Peach, including completing 151 of 233 passes for 2,486 yards and 34 touchdowns, rushing 251 times for 2,308 yards and 38 scores, totaling 4,794 yards and 72 touchdowns, and earning the area record for passes intercepted as a free safety. Further, Travis Atwell is congratulated for leading this outstanding team to a season record of 12 wins and 3 losses, setting a school record for most season wins, and to the school's first regional championship victory. Inasmuch as this impressive athlete has brought honor and acclaim to himself, his team and his school by the superior levels of skill and team spirit that he has consistently demonstrated, the members of this body are delighted to join Representative Mark Treesh in applauding Travis Atwell, in wishing him a very happy birthday as he turns 18, and in extending best wishes for continuing success in his college years. Done in Frankfort, this thirteenth day of January, in the year of our Lord, Two Thousand.

Legislative Citation No. 9 was adopted without objection.

Representative Marzian moved that the rules be suspended to grant floor privileges to former Representative D. Stengel.

Representative Burch moved that the rules be suspended to grant floor privileges to former Representative Maggard.

Introductions of Bills and Resolutions

HB 347, by Representatives Crenshaw, L. Clark, Hoffman, Riggs, Jenkins, Horlander, Nunn, Simpson, Wayne, Burch,

Stein, Stumbo, Lee, Marzian, Johns, and Jordan: AN ACT relating to public school calendars.

HB 348, by Representatives Upchurch, Callahan, R. Adams, Feeley, Allen, Cornett, L. Clark, Haydon, Palmer, Crall, Hoover, Ausmus, Ford, T. Turner, Stewart, Vincent, DeWeese, J. Turner, Scott, Colter, Sims, Cave, Rader, P. Clark, and Bruce: AN ACT relating to manufactured homes.

HB 349, by Representative Yonts: AN ACT relating to electrical services.

HB 350, by Representative A. Arnold: AN ACT relating to elections.

HB 351, by Representative A. Arnold: AN ACT relating to driving under the influence.

HB 352, by Representative A. Arnold: AN ACT relating to elections.

HB 353, by Representatives P. Clark, L. Clark, Horlander, Jenkins, D. Butler, Wayne, Johns, Miller: AN ACT relating to operators' licenses.

HB 354, by Representative Gooch: AN ACT relating to insurance.

HB 355, by Representatives Miller, L. Clark, D. Butler, Jenkins, J. Arnold, Colter, Weaver, Draud, Lee, Nunn, Bratcher, Johns, Marzian, Anderson, Polston, McKee, Sims, Crimm, P. Clark, Horlander, Walton, Thompson, and Graham: AN ACT relating to visitation rights.

HB 356, by Representative Adkins: AN ACT relating to the Flood Control Advisory Commission.

HCR 45, by Representatives Bruce, R. Adams, McKee, Thomas: A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 336, HB 337, HB 338**

Banking and Insurance: **HB 342, HB 343**

Economic Development, Tourism and Labor: **HB 330**

Education: **HB 332, HB 333**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 341, HR 43**

Health and Welfare: **HB 345**

Judiciary: **HB 329**

Licensing and Occupations: **HB 327**

Local Government: **HB 326, HB 328, HB 331, HB 334, HB 335**

State Government: **HB 339, HB 340, HJR 42, HCR 44**

Tourism Development and Energy: **HB 346**

Transportation: **HB 325, HB 344, HJR 41**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Education: **HB 77, HB 126, HB 142, HJR 14**

Report of Committees

The Committee on Local Government reported **HB 56, HB 109, HB 115**, with Committee Substitute attached thereto, **HB 122** with Committee Amendment attached thereto, and **HB 147** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 56, AN ACT changing the classification of the city of Hollow Creek, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Hollow Creek, in Jefferson County, is such as to justify its being classified as a city of the fifth class;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Hollow Creek, in Jefferson County, is transferred from the sixth to the fifth class of cities.

HB 109, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-1199, dated August 30, 1999, which creates the position of General Counsel within the Department for Local Government.

HB 115, AN ACT relating to public safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) "Bleacher" means any tiered or stepped seating facility, whether temporary or permanent, used in a place of public accommodation for the seating of its occupants; and***
- (2) "Place of public accommodation" means a public or privately owned sports or entertainment arena, gymnasium, auditorium, stadium, hall, special event center in a public park, or other facility for public assembly.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, all places of public accommodation using bleacher seating that have bleachers thirty (30) inches above grade of the floor below, shall conform to the following safety requirements:

- (1) The open space between bleacher footboards, seats, and guardrails shall not exceed four (4) inches, unless approved safety nets are installed; and***
- (2) Bleachers shall have vertical perimeter guardrails with no more than four (4) inches of space between vertical rails, or other approved guardrails which address climbability and are designed to prevent accidents. Safety nets and guardrail climbability shall be approved by a qualified and certified building inspector in accordance with administrative regulations promulgated by the board.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) For bleachers already in existence on the effective date of this Act, a signed certification of compliance shall be provided to the commissioner by July 1, 2001. The certification shall be prepared by a qualified and certified building inspector and shall certify that the bleachers have been inspected and are in compliance with the requirements set forth in Section 2 of this Act.***
- (2) All new bleachers manufactured, installed, sold, or distributed in the Commonwealth on or after the effective date of this Act shall comply with the requirements set forth in Section 2 of this Act.***
- (3) All bleachers, footboards, and guardrails shall be inspected every five (5) years, and a structural inspection shall be made every ten (10) years. Inspections shall be completed in the same manner as provided for in subsection (1) of this section.***
- (4) If a qualified and certified building inspector is not available in the area where the public accommodation is located, the owner or entity responsible for the public accommodation shall contract with a qualified and certified building inspector from another area to conduct the inspections required in Section 2 of this Act.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) For purposes of this section, "person" means an individual, public or private entity, however organized, or a unit of state or local government.***
- (2) Any person who violates Sections 2 and 3 of this Act shall be subject to a civil penalty of five hundred dollars (\$500) for each violation. Fines collected under this section shall be deposited in a trust and agency fund created in the State Treasury for the purpose of providing grants to facilitate compliance with the requirements of Section 2 of this Act. The grants shall be awarded by the commissioner to publicly owned places of public accommodation. The highest priority for these grants shall be given to political subdivisions for which the cost of compliance would impose the greatest financial burden.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall be cited as the Bleacher Safety Act.

Section 6. KRS 198B.040 is amended to read as follows:

The Kentucky Board of Housing, Buildings and Construction shall have the following general powers and duties:

- (1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;
- (2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability and comfort;
- (3) To administer regulatory legislation relating to buildings and construction;
- (4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state and local agencies in the programs as they relate to buildings and construction;
- (5) To assume administration and coordination of various state housing programs to include:
 - (a) Devising and implementing procedures, in conjunction with the Department for Local Government, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of this housing, and housing constructed and demolished each year;
 - (b) Designing programs coordinating the elements of housing finance, production, maintenance, and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;
 - (c) Establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;
 - (d) Designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;
 - (e) Promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;
 - (f) Cooperating with various federal, state, and local agencies in their programs as they relate to housing;
 - (g) Conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;
- (6) To recommend state building industry policies and goals to the Kentucky General Assembly;
- (7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state;
- (8) To promulgate administrative regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public water purification plants will be submitted by the department to the Natural Resources and Environmental Protection Cabinet for that cabinet's comments. Any such regulations shall require the Natural Resources and Environmental Protection Cabinet's comments to be completed and submitted to the department within sixty (60) days;
- (9) To promulgate administrative regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public sewage treatment plants will be submitted by the department to the Natural Resources and Environmental Protection Cabinet for that cabinet's comments. Any such regulations shall require the Natural Resources and Environmental Protection Cabinet's comments to be completed and submitted to the department within sixty (60) days;~~and~~
- (10) To promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures; ***and***
- (11) ***To promulgate administrative regulations that set forth standards for compliance with the provisions of Section 2 of this Act.***

Section 7. In fiscal year 2000-2001, two hundred thousand dollars (\$200,000) collected and paid in accordance with KRS 338.991, notwithstanding subsection (7) of that statute, shall be credited to the trust and agency fund created in Section 4 of this Act.

The Committee Substitute to **HB 115** is as follows:

HB 115, AN ACT relating to public safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) "Bleacher" means any tiered or stepped seating facility without backrests, whether temporary or permanent, used in a place of public accommodation for the seating of its occupants, but "bleacher" does not include any tiered or stepped seating facility that has continuous tiered or stepped vertical structures with no open spaces between the tier or steps and has affixed to those structures, seating that is attached to the structures; and
- (2) "Place of public accommodation" means a public or privately owned sports or entertainment arena, gymnasium, auditorium, stadium, hall, special event center in a public park, outdoor ball fields, or other facility for public assembly.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, all places of public accommodation using bleacher seating with bleachers thirty (30) inches above grade of the floor below shall conform to the following safety requirements or applicable requirements contained in the Kentucky Uniform Building Code adopted under this chapter, whichever are more stringent:

- (1) The open space between bleacher footboards, seats, and guardrails shall not exceed three and one-half (3 1/2) inches, unless approved safety nets are installed; and
- (2) Bleachers shall have vertical perimeter guardrails with no more than three and one-half (3 1/2) inches of space between vertical rails, chain link fence, or other approved guardrails designed to prevent accidents. Safety nets, chain link fences, and guardrails shall be in compliance with administrative regulations promulgated by the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) For bleachers already in existence on the effective date of this Act, a signed certification of compliance shall be provided to the commissioner by July 1, 2003. The certification shall be prepared by a qualified and certified building inspector or a state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements set forth in Section 2 of this Act.
- (2) All new bleachers manufactured, installed, sold, or distributed in the Commonwealth on or after the effective date of this Act, shall comply with the requirements set forth in Sections 1 to 5 of this Act or applicable requirements contained in the Kentucky Uniform Building Code adopted under this chapter, whichever are more stringent.
- (3) All bleachers, footboards, and guardrails shall be inspected every five (5) years. Inspections shall be completed in the same manner as provided for in subsection (1) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) For purposes of this section, "person" means an individual, public or private entity, however organized, or a unit of state or local government.
- (2) Any person who violates Sections 2 and 3 of this Act shall be subject to a civil penalty of five hundred dollars (\$500) for each violation. Fines collected under this section shall be deposited in a trust and agency fund created in the State Treasury for the purpose of providing grants to facilitate compliance with the requirements of Section 2 of this Act. The grants shall be awarded by the commissioner to publicly owned places of public accommodation. The highest priority for these grants shall be given to political subdivisions for which the cost of compliance would impose the greatest financial burden.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall be cited as the Bleacher Safety Act.

Section 6. KRS 198B.040 is amended to read as follows:

The Kentucky Board of Housing, Buildings and Construction shall have the following general powers and duties:

- (1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;
- (2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability and comfort;
- (3) To administer regulatory legislation relating to buildings and construction;
- (4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal; state and local agencies in the programs as they relate to buildings and construction;
- (5) To assume administration and coordination of various state housing programs to include:
 - (a) Devising and implementing procedures, in conjunction with the Department for Local Government, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of this housing, and housing constructed and demolished each year;

- (b) Designing programs coordinating the elements of housing finance, production, maintenance, and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;
- (c) Establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;
- (d) Designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;
- (e) Promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;
- (f) Cooperating with various federal, state, and local agencies in their programs as they relate to housing;
- (g) Conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;
- (6) To recommend state building industry policies and goals to the Kentucky General Assembly;
- (7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state;
- (8) To promulgate administrative regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public water purification plants will be submitted by the department to the Natural Resources and Environmental Protection Cabinet for that cabinet's comments. Any such regulations shall require the Natural Resources and Environmental Protection Cabinet's comments to be completed and submitted to the department within sixty (60) days;
- (9) To promulgate administrative regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public sewage treatment plants will be submitted by the department to the Natural Resources and Environmental Protection Cabinet for that cabinet's comments. Any such regulations shall require the Natural Resources and Environmental Protection Cabinet's comments to be completed and submitted to the department within sixty (60) days;~~and~~
- (10) To promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures; *and*
- (11) To promulgate administrative regulations that set forth standards for compliance with the provisions of Section 2 of this Act.**

HB 122, AN ACT relating to county occupational license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.197 is amended to read as follows:

- (1) **(a)** The fiscal court of each county having a population of thirty thousand (30,000) or more may by ~~ordinance~~~~order or resolution~~ impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on ~~a~~~~such~~ business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
 - ~~1. (a)~~ Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
 - ~~2. (b)~~ The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
 - ~~3. (c)~~ The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
- (b)** In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
 - 1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
 - 2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in

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the county.

- (c) Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.
- (2) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.
- (4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.
- (5) **For purposes of this section, the population of a county shall be that number determined by the United States Bureau of the Census to be the most recent county population estimate.**

The Committee Amendment No. 1 Title to **HB 122** is as follows:

On page 1, by amending the title to read "AN ACT relating to the county population."

HB 147, AN ACT relating to the issuance of bonds for low cost housing by the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.090 is amended to read as follows:

- (1) Except as provided in subsection (6) of this section, the corporation may provide for the issuance, at one (1) time or from time to time, of bonds of the corporation if the cumulative outstanding indebtedness of the corporation's bonds does not exceed two billion five hundred million dollars (\$2,500,000,000) ~~one billion one hundred twenty five million dollars (\$1,125,000,000)~~, in order to carry out and effectuate its corporate purposes and powers.
- (2) In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on the bonds or notes shall be payable solely from the funds provided for the payment. Notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation.
- (3) The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at a price and under terms and conditions determined by the corporation. Bonds or notes shall bear interest at a rate determined by the corporation. Notes shall mature at a time not exceeding ten (10) years from their date and bonds shall mature at a time not exceeding forty (40) years from their date, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination and the place of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. If an officer whose signature or a facsimile of whose signature appears on any bonds, notes, or coupons attached to them shall cease to be an officer before the delivery thereof, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until delivery. The corporation may provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter, if the sale is approved by the corporation.
- (4) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in the manner and under the restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the same.
- (5) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which become

mutilated, destroyed, or lost.

- (6) (a) Prior to the issuance of any bonds or notes that are not secured by:
1. Direct obligations or obligations guaranteed by the United States of America; or
 2. Obligations of federal agencies to the extent that the obligations are backed by the full faith and credit of the United States of America; or
 3. Repurchase agreements with any primary dealer in securities fully secured by obligations described in subparagraphs 1 and 2 if the market value of the security is maintained at one hundred three percent (103%) of the principal amount of the repurchase agreement and the security is held by an independent third party custodian financial institution; or
 4. Insured or guaranteed construction loans or mortgage loans as defined by KRS 198A.010(9) and (10); or
 5. Guaranty insurance policies which guarantee payment of the principal and interest on the bonds issued by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services;
- the corporation shall obtain the approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1), unless the provisions of paragraph (b) of this subsection apply. This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bonds or notes.
- (b) The corporation may provide for the issuance, at any one (1) time or from time to time, of bonds which do not satisfy the requirements of paragraph (a) of this subsection without approval of the issuance by the General Assembly if the cumulative outstanding indebtedness of the corporation that does not meet the requirements of paragraph (a) of this subsection does not exceed thirty million dollars (\$30,000,000).
- (c) The corporation shall annually report on its housing and bonding programs to the Interim Joint Committee on Appropriations and Revenue.
- (7) The Finance and Administration Cabinet shall provide to the corporation fiscal consultant services regarding revenue bond management as necessary.

The Committee on Banking and Insurance reported **HB 3**, **HB 9**, and **HB 107** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

- (a) "Casualty insurance" has the meaning set forth in KRS 304.5-070;*
- (b) "Domestic violence and abuse" has the meaning set forth in KRS 403.720;*
- (c) "Innocent co-insured" means an individual who did not cooperate in or contribute to the creation of the loss;*
- (d) "Insurer" means an insurer licensed to write property or casualty insurance in Kentucky; and*
- (e) "Property insurance" has the meaning set forth in KRS 304.5-050.*

- (2) (a) No insurer shall use the fact that an applicant or insured incurred bodily injury as a result of domestic violence and abuse committed against him or her as the sole reason for rating or underwriting decisions, refusing to insure, refusing to continue to insure, or limiting the amount, extent, or kind of coverage available to an applicant or insured.*
- (b) If a property or casualty insurance policy excludes property coverage for intentional acts, the insurer shall not deny payment to an innocent co-insured if the loss arose out of a pattern of domestic violence and abuse and the perpetrator of the loss is criminally prosecuted for the act causing the loss. Payment to the innocent co-insured may be limited to his or her ownership interests in the property as reduced by any payments to a mortgage or other secured interest.*

HB 9, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17-316 is amended to read as follows:

- (1) The term "mammogram" shall mean an x-ray examination of the breast using equipment dedicated specifically for mammography, including, but not limited to, the x-ray tube, filter, compression device, screens, film, and cassettes, with

two (2) views of each breast and with an average radiation exposure at the current recommended level as set forth in guidelines of the American College of Radiology.

- (2) (a) All insurers issuing individual health insurance policies in this Commonwealth ~~that~~^{that which} provide coverage on an expense-incurred basis for surgical services for a mastectomy and ~~that~~^{that which} are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for low-dose mammography screening for persons who have no sign or symptom of breast cancer and when performed on dedicated equipment which meets the guidelines established by the American College of Radiology and upon self-referral or on referral by a health care practitioner acting within the scope of ~~the~~^{such} practitioner's licensure. The coverage shall make available one (1) screening mammogram to persons age thirty-five (35) through thirty-nine (39); one (1) mammogram every two (2) years for persons ages forty (40) through forty-nine (49); and one (1) mammogram per year for a person fifty (50) years of age and over and may be limited to a benefit of fifty dollars (\$50) per screening mammogram. Any deductibles and coinsurance factors shall be no less favorable than for coverage for physical illness generally.
- (b) All insurers issuing individual health insurance policies in this Commonwealth that provide coverage on an expense-incurred basis for surgical services for a mastectomy and that are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act, shall also provide coverage for mammograms, performed on dedicated equipment that meets the guidelines established by the American College of Radiology, for any covered person, regardless of age, who has been diagnosed with breast disease upon referral by a health care practitioner acting within the scope of the practitioner's licensure. The coverage provided under this paragraph shall be subject to the same annual deductibles or coinsurance established for other coverages within the policy.
- (3) The mammogram shall be performed by a Kentucky State Certified General Certificate Radiographer or an American Registry of Radiologic Technology Registered Radiographer, interpreted by a qualified radiologist, and performed under the direction of a person licensed to practice medicine and certified by the American Board of Radiology. Two (2) copies of the mammogram report shall be sent to the health care practitioner who ordered it, one (1) copy of which shall be given to the patient. In case of self-referral, one (1) copy of the mammogram report shall be given to the patient upon request. The mammography film shall be retained by the facility performing the examination in accordance with guidelines of the American College of Radiology.
- (4) Effective July 15, 1990, any facility in which mammograms are performed for reimbursement under this section, KRS 304.18-098, 304.32-1591, or 304.38-1935 shall meet current criteria of the American College of Radiology Mammography Accreditation Program.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing health benefit plans in this Commonwealth that provide coverage for surgical services for a mastectomy and that are delivered, issued for delivery, amended, or renewed on or after the effective date of this Act, shall also provide coverage for mammograms under Section 1 of this Act. The coverage shall meet the standards set forth in Section 1 of this Act.

Section 3. KRS 304.18-098 is amended to read as follows:

All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth ~~that~~^{that provide}~~providing~~ coverage on an expense-incurred basis for surgical services for a mastectomy and ~~that~~^{that which} are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for ~~mammograms under~~^{low-dose mammography screening as provided in} KRS 304.17-316. The coverage shall meet the standards set forth in KRS 304.17-316.

Section 4. KRS 304.32-1591 is amended to read as follows:

All nonprofit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth ~~that~~^{that which} provide hospital, medical, or surgical expense benefits for a mastectomy and ~~that~~^{that which} are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for ~~mammograms~~^{low-dose mammography screening as provided} under KRS 304.17-316. The coverage shall meet the standards set forth in KRS 304.17-316.

Section 5. KRS 304.38-1935 is amended to read as follows:

Health maintenance organizations issuing contracts in this Commonwealth ~~that~~^{that which} provide hospital, medical, or surgical expense benefits for surgical services for a mastectomy and ~~that~~^{that which} are delivered, issued for delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for ~~mammograms~~^{low-dose mammography screening as provided} under KRS 304.17-316. The coverage shall meet the minimum standards set forth in KRS 304.17-316.

HB 107, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-37, dated January 11, 1999, relating to the Public

Protection and Regulation Cabinet, Department of Insurance, that: creates the Division of Health Insurance Policy and Managed Care to be headed by a director, appointed in accordance with KRS 12.050 and KRS 304.2-060; and, changes the name of the Life and Health Division to the Life Insurance Division, this division to be headed by a director appointed in accordance with KRS 12.050 and KRS 304.2-060. The newly created Division of Health Insurance Policy and Managed Care and the renamed Life Insurance Division shall be composed of such personnel, equipment, files, and funding as may be set forth by administrative order of the Department of Insurance, in accordance with Executive Order 99-37.

The Committee on Agriculture and Small Business reported **HB 175** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 175, AN ACT relating to farm safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.406 is amended to read as follows:

- (1) For a county organization to be eligible for funding, the following requirements shall be met:
 - (a) The organization shall be incorporated as nonprofit under KRS Chapter 273; and
 - (b) The organization shall submit a business plan to the department detailing how the corporation will operate and how it intends to incorporate a farm safety plan in its overall farm safety program.
- (2) If the county organization's business plan is approved by the department, and if funding is available, the department shall distribute a grant of ~~two[one]~~ thousand dollars (\$2,000)[(\$1,000)] to the organization.
- (3) The county organization shall make an annual written report to the department regarding the activities of the organization's farm safety program and the disposition of the grant money.

The Committee on Judiciary reported **HB 52**, with Committee Substitute No. 1 attached thereto, **HB 70**, **HB 71**, with Committee Substitute No. 1 attached thereto, **HB 85**, **HB 86**, **HB 87**, **HB 129**, **HB 164**, and **HB 229**, with Committee Substitute No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to operators of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.930 is amended to read as follows:

- (1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.
- (2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.
- (3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.
- (4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.
- (5) *Upon approaching a stationary emergency vehicle, when the emergency vehicle is giving a signal by displaying alternately flashing red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:*
 - (a) *Yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if;*
 1. *The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and*
 2. *If it is possible to make the lane change with due regard to safety and traffic conditions; or*
 - (b) *Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be*

impossible or unsafe.

- (6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.**

The Committee Substitute No. 1 to **HB 52** is as follows:

HB 52, AN ACT relating to operators of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.930 is amended to read as follows:

- (1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.
- (2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.
- (3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.
- (4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.
- (5) Upon approaching a stationary emergency vehicle, when the emergency vehicle is giving a signal by displaying alternately flashing red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:**
 - (a) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if;**
 - 1. The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and**
 - 2. If it is possible to make the lane change with due regard to safety and traffic conditions; or**
 - (b) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.**
- (6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.**

HB 70, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.130 is amended to read as follows:

As used in this chapter, unless the context requires otherwise, ~~{~~

~~— }~~ "place of public accommodation, resort, or amusement" ~~means~~~~{includes}~~ any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds,~~{~~ except that:

- (1) ~~{A private club is not a place of }~~ "Public accommodation, resort, or amusement" **does not include a private club** if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests;~~{and}~~
- (2) "Place of public accommodation, resort, or amusement" does not include a rooming or boarding house containing not more than one (1) room for rent or hire and which is within a building occupied by the proprietor as his residence; **and**
- (3) "Place of public accommodation, resort, or amusement" does not include the nonprofit worship and recreational activities and facilities of a religious corporation, group, association, or society.**

HB 71, AN ACT relating to the safekeeping of wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.110 is amended to read as follows:

A will may be deposited by the person making it, or anyone for him, with the ~~District Court~~~~county~~ Clerk of the county of his residence for safekeeping, upon payment of a fee as provided for ~~by court rule~~~~in KRS 64.012 to the clerk~~. The clerk shall receive, keep, and deliver the will according to the directions on a sealed envelope. If there are no such directions, or the party entitled does not apply, the will shall be handed to and opened by the District Court, after the death of the testator, and there retained for probate.

The Committee Substitute No. 1 to **HB 71** is as follows:

HB 71, AN ACT relating to the safekeeping of wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.110 is amended to read as follows:

A will may be deposited by the person making it, or anyone for him, with the ~~clerk of the District Court~~~~county Clerk~~ of the county of his residence for safekeeping, upon payment of a fee as provided for ~~by court rule~~~~in KRS 64.012 to the clerk~~. The clerk shall receive, keep, and deliver the will according to the directions on a sealed envelope. If there are no such directions, or the party entitled does not apply, the will shall be handed to and opened by the District Court, after the death of the testator, and there retained for probate.

HB 85, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Office of General Counsel;
- (2) Division of Administrative Services;
- (3) Division of Corrections Training;
- (4) Division of Institutional Operations;
- (5) Division of Mental Health Programs;
- (6) Division of Correctional Industries;
- (7) Division of Medical Services;
- (8) Division of Probation and Parole;
- (9) Division of Local Facilities;
- (10) ***Western Region Division and Eastern Region Division, Adult Institutions.*** Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160.

Section 2. The General Assembly confirms Executive Order 98-730, dated June 16, 1998, relating to the reorganization of the Department of Corrections, Justice Cabinet, to the extent that it is not otherwise confirmed by this Act.

HB 86, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.030 is amended to read as follows:

The Justice Cabinet, in addition to the departments set forth in KRS 15A.020, shall consist of the following organizational units which are hereby created or reestablished:

- (1) Office of the Secretary of Justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, ***the Office of the Criminal Justice Council***, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.
- (2) Offices of Deputy Secretaries of Justice.
- (3) Office of the General Counsel.
- (4) Division of Kentucky State Medical Examiners Office.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The Office of the Criminal Justice Council is hereby established and shall be comprised of the Long Range Planning Branch and the Grants Management Branch. The office shall be responsible for the functions and duties vested in the Criminal Justice Council, as described in Section 3 of this Act, and for state and federal grants management including, but not limited to, the administration of Section 4 of this Act. The office shall be headed by the executive director of the Criminal Justice Council appointed by the secretary of the Justice Cabinet with the approval of the Governor in accordance with KRS 12.050. The executive director shall be responsible to the Secretary of the Justice Cabinet.

Section 3. KRS 15A.040 is amended to read as follows:

- (1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:
 - (a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;
 - (b) Conduct comprehensive planning to promote the maximum benefits of grants;
 - (c) Develop model criminal justice programs;
 - (d) Disseminate information on criminal justice issues and crime trends;
 - (e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;
 - (f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;
 - (g) Provide technical assistance to all criminal justice agencies;
 - (h) Review and evaluate proposed legislation affecting criminal justice; and
 - (i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.
- (2) Membership of the Criminal Justice Council shall consist of the following:
 - (a) The secretary of the Justice Cabinet or his designee;
 - (b) The director of the Administrative Office of the Courts or his designee;
 - (c) The Attorney General or his designee;
 - (d) Two (2) members of the House of Representatives as designated by the Speaker of the House;
 - (e) Two (2) members of the Senate as designated by the President of the Senate;
 - (f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;
 - (g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;
 - (h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;
 - (i) The public advocate or his designee;
 - (j) The president of the Kentucky Sheriffs' Association;
 - (k) The commissioner of state police or his designee;
 - (l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;
 - (m) The president of the Kentucky Association of Chiefs of Police;
 - (n) A member of the Prosecutors Advisory Council as chosen by the council;
 - (o) The Chief Justice or a justice or judge designated by him;
 - (p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;
 - (q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;
 - (r) One (1) member of the Circuit Clerks' Association;
 - (s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D.

Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

- (t) One (1) District Judge, designated by the Chief Justice;
 - (u) One (1) Circuit Judge, designated by the Chief Justice;
 - (v) One (1) Court of Appeals Judge, designated by the Chief Justice;
 - (w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders; and
 - (x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor.
- (3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.
 - (4) The council shall meet at least once every three (3) months.
 - (5) The council may hold additional meetings:
 - (a) On the call of the chairman;
 - (b) At the request of the Governor to the chairman; or
 - (c) At the written request of the members to the chairman, signed by a majority of the members.
 - (6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.
 - (7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.
 - (8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:
 - (a) Uniform Criminal Justice Information System committee;
 - (b) Committee on sentencing; and
 - (c) Penal Code committee.
 - (9) The council's administrative functions shall be performed by a full-time executive director, who also shall serve as the executive director of the Office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 4. KRS 15A.060 is amended to read as follows:

The Office of Secretary of Justice shall serve as the state planning agency for purposes of compliance with the Federal Crime Control and Safe Streets Act of 1968, as amended, or subsequently adopted federal criminal justice legislation, and provide staff services to the Criminal Justice Council ~~(Kentucky Crime Commission)~~ relating to the administration of these federally supported programs ~~[pursuant to the above referenced acts]~~.

Section 5. The General Assembly confirms Executive Order 98-964, dated July 23, 1998, relating to the creation of the Office of the Criminal Justice Council within the Justice Cabinet to the extent it is not otherwise confirmed by this Act.

HB 87, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 98-1405, dated October 20, 1998, which creates the Division of Training Support and changes the name of the Division of Training to the Division of Training Operations within the Department of Training, Justice Cabinet.

HB 129, AN ACT relating to durable powers of attorney.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 386.093 is amended to read as follows:

- (1) As used in this section, "durable power of attorney" means a power of attorney by which a principal designates another as the principal's attorney in fact in writing and the writing contains the words, "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time", or "This power of attorney shall become effective upon the disability or incapacity of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

- (2) All acts done by an attorney in fact under a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and the principal's successors in interest as if the principal were competent and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.
- (3) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.
- (4) The disability or incapacity of the principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.
- (5) If the power of attorney is to become effective upon the disability or incapacity of the principal, the principal may specify the conditions under which the power is to become effective and may designate the person, persons, or institution responsible for making the determination of disability or incapacity. If the principal fails to so specify, the power shall become effective upon a written determination by two (2) physicians that the principal is unable, by reason of physical or mental disability, to prudently manage or care for the principal's person or property, which written determination shall be conclusive proof of the attorney in fact's power to act pursuant to the power of attorney. The two (2) physicians making the determination shall be licensed to practice medicine.
- (6) Notwithstanding any provision of law to the contrary, a durable power of attorney may authorize an attorney in fact to make a gift of the principal's real or personal property to the attorney in fact or to others if the intent of the principal to do so is unambiguously stated on the face of the instrument.

HB 164, AN ACT relating to compensation for returning fugitives from justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 440.090 is amended to read as follows:

When the Governor of this state makes requisition upon the Governor of another state for a fugitive from justice, the person named in the requisition as the agent of this state shall, unless a different condition is contained in his commission, be allowed as compensation from the State Treasury for his services a mileage allowance at the same rate fixed by regulations adopted by the secretary of the Finance and Administration Cabinet pursuant to KRS 44.060, plus an additional sum calculated at the rate of five cents (\$0.05) per mile for the distance he travels to and from the jail of the county designated in the proclamation to the place where the fugitive is arrested, and any other necessary expenses he pays in reclaiming and returning the fugitive. ***If, in attempting to reclaim the fugitive, the agent is acting within the course and scope of his employment, the amount due shall be paid over to the agent's employer instead of the agent.*** When a fugitive is to be returned to this state from a location out of state which is in excess of five hundred (500) miles from the jail to which he is to be returned, commercial air transportation may be utilized in lieu of ground transportation, unless the agent undertaking the transportation decides to utilize ground transportation. Payment for air transportation shall be in lieu of the mileage payment for ground transportation only for that portion of the journey for which air transportation is used. Ground transportation and other expenses shall be paid as authorized herein. If the agent is not given possession of the fugitive for reasons beyond the agent's control, he, ***or his employer,*** shall nevertheless be allowed the compensation prescribed by this section. Upon the return of the fugitive to the county in which the jail named in the proclamation is located, the person having him in charge shall go before a judge, who shall issue a mittimus to the jailer to receive the prisoner and keep him until he is discharged.

Section 2. KRS 440.380 is amended to read as follows:

- (1) When a person charged with commission of a felony in this state or with having been convicted of a felony here and having escaped from confinement or broken the terms of his bail, probation or parole is arrested in another state and waives extradition proceedings, the county judge/executive of the county in which the felony was committed, or from which the escape was made, may, upon filing of a verified application by the Commonwealth's attorney or county attorney setting forth the fact of waiver and making all statements required by subsection (1) or subsection (2) of KRS 440.370, enter an order designating an officer to return the fugitive to this state without benefit of any procedure incidental to extradition proceedings. Upon entry of such order the officer so designated shall be authorized to go after and return the fugitive as the agent of this state and shall receive from the State Treasury the same payment for his expenses as is provided by KRS 440.090 for agents acting under requisition of the Governor. ***If, in attempting to reclaim the fugitive, the agent is acting within the course and scope of his employment, the amount due shall be paid over to the agent's employer instead of the agent.*** Claims for reimbursement of expenses under this subsection shall be accompanied by certified copies of the verified application for appointment of the agent and the order of appointment, together with a copy of any process showing delivery of the fugitive to the jailer upon return to this state. If the agent is not given possession of the fugitive for reasons beyond the agent's control, he, ***or his employer,*** shall nevertheless be reimbursed as provided

herein, if it is shown that prior to his appointment as agent and before departure from the state the fugitive had executed in the presence of any officer authorized to administer an oath a written waiver stating that he consents to return to this state without extradition.

- (2) All legal costs incurred in apprehending and securing in this state a fugitive wanted in another state shall be paid by the agent of the state demanding him before the agent is permitted to remove him or receive him into custody.

HB 229, AN ACT relating to working of prisoners in county jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.127 is amended to read as follows:

- (1) Unless precluded by written order of the sentencing court with regard to a specific inmate or inmates, the jailer or correctional services department may grant sentence credits to inmates confined in the county jail on conviction of misdemeanor charges for labor performed without the jail in a community service program or within the jail for the maintenance of the jail or for the operation of jail services such as food service.
- (2) Credit, if granted, shall be uniform and shall be based on the following:
 - (a) For every eight (8) full hours of work, one (1) sentence credit shall be earned;
 - (b) For every ~~five (5) of~~ sentence ~~credit[credits]~~ earned, one (1) day of the sentence to be served by the inmate shall be deducted; and
 - (c) Sentence credits shall be deducted from the maximum expiration date of the sentence.
- (3) If an inmate violates the rules of the jail or engages in other misconduct the jailer or correctional services department may withdraw sentence credits earned by the inmate. The jailer or correctional services department shall maintain a list of offenses and penalties for the ten (10) most common offenses and rule violations.

The Committee Substitute No. 1 to **HB 229** is as follows:

HB 229, AN ACT relating to working of prisoners in county jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.127 is amended to read as follows:

- (1) Unless precluded by written order of the sentencing court with regard to a specific inmate or inmates, the jailer or correctional services department may grant sentence credits to inmates confined in the county jail on conviction of misdemeanor charges for labor performed without the jail in a community service program or within the jail for the maintenance of the jail or for the operation of jail services such as food service.
- (2) Credit, if granted, shall be uniform and shall be based on the following:
 - (a) For every eight (8) full hours of work, one (1) sentence credit shall be earned;
 - (b) For every three (3) ~~five (5) of~~ sentence credits earned, one (1) day of the sentence to be served by the inmate shall be deducted; and
 - (c) Sentence credits shall be deducted from the maximum expiration date of the sentence.
- (3) If an inmate violates the rules of the jail or engages in other misconduct the jailer or correctional services department may withdraw sentence credits earned by the inmate. The jailer or correctional services department shall maintain a list of offenses and penalties for the ten (10) most common offenses and rule violations.

Calendar

HB 43, HB 40, HB 174, HB 261, HB 266, HB 72, HB 232, HB 8, HB 69, HB 250, HB 103, HB 106, and HB 219 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 51, HB 82, HB 84, HB 90, HB 165, and HB 265** have been posted for passage in the Orders of the Day for January 14, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 8**

Orders of the Day

HB 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 78** be passed.

On the roll call the vote was: **Yeas 82, Nays 12.** (See January 13 , 2000 roll call on **HB 78** - Appendix.)

HB 78 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 78** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 80 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 80** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 13 , 2000 roll call on **HB 80** - Appendix.)

HB 80 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 80** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 83 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 83** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 13 , 2000 roll call on **HB 83** - Appendix.)

HB 83 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 83** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 95 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 95** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 13 , 2000 roll call on **HB 95** - Appendix.)

HB 95 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 95** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 98 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 98** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 13 , 2000 roll call on **HB 98** - Appendix.)

HB 98 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 98** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 110 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 110** be passed.

On the roll call the vote was: **Yeas 91, Nays 3.** (See January 13, 2000 roll call on **HB 110** - Appendix.)

HB 110 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 110** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 183 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 183** be passed.

On the roll call the vote was: **Yeas 94, Nays 1.** (See January 13, 2000 roll call on **HB 183** - Appendix.)

HB 183 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 183** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 184 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 184** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 13, 2000 roll call on **HB 184** - Appendix.)

HB 184 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 184** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 214 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 214** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 13, 2000 roll call on **HB 214** - Appendix.)

HB 214 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 214** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 215 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 215** be passed.

On the roll call the vote was: **Yeas 94, Nays 1.** (See January 13, 2000 roll call on **HB 215** - Appendix.)

HB 215 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 215** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 22, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute No. 1 to **HB 22**. Agreed.

Representative L. Clark moved that **HB 22**, by way of Committee Substitute No. 1, be passed.

On the roll call the vote was: **Yeas 84, Nays 7**. (See January 13, 2000 roll call on **HB 22** - Appendix.)

HB 22, by way of Committee Substitute No. 1, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 22**, by way of Committee Substitute No. 1, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 137** be passed.

On the roll call the vote was: **Yeas 90, Nays 4**. (See January 13, 2000 roll call on **HB 137** - Appendix.)

HB 137 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 137** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 166 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 166** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 13, 2000 roll call on **HB 166** - Appendix.)

HB 166 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 166** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 168 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 168** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 13, 2000 roll call on **HB 168** - Appendix.)

HB 168 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 168** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 176, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved the adoption of the Committee Substitute No. 1 to **HB 176**. Agreed.

Representative Sims moved that **HB 176**, by way of Committee Substitute No. 1, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 13, 2000 roll call on **HB 176** - Appendix.)

HB 176, by way of Committee Substitute No. 1, was passed and the title agreed to.

Representative Sims moved that the vote by which **HB 176**, by way of Committee Substitute No. 1, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 6, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute No. 1 to **HCR 6**. Agreed.

Representative Ballard moved that **HCR 6**, by way of Committee Substitute No. 1, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 13, 2000 roll call on **HCR 6** - Appendix.)

HCR 6, by way of Committee Substitute No. 1, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HCR 6**, by way of Committee Substitute No. 1, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills (Continued)

HB 357, by Representative R. Adams: AN ACT relating to fish and wildlife.

HB 358, by Representatives Nunn, Crimm, Stein, and Colter: AN ACT relating to animal control.

HB 359, by Representatives Wilkey and J. Adams: AN ACT relating to boards of ethics of local governments.

HB 360, by Representatives Treesh, Crall, Vincent, Moberly, Simpson, Kerr, Walton, Hoover, and Thomas: AN ACT relating to the police and firefighters' retirement fund in cities of the second class.

HB 361, by Representative Ford: AN ACT relating to telephone directory advertisements.

HB 362, by Representative Stumbo: AN ACT relating to the Justice Cabinet and declaring an emergency.

HB 363, by Representatives Napier and Stumbo: AN ACT relating to elections.

HB 364, by Representatives Westrom, Damron, Weaver, Ausmus, Gray, Burch, Nunn, DeWeese, R. Adams, Haydon, Jordan, Adkins, Gooch, Crenshaw, Reinhardt, Stein, Cherry, Colter, Palumbo, C. Belcher, Riggs, Hoffman, Graham, L. Clark, Rader, McKee, A. Arnold, J. Arnold, Palmer, Barrows, Stumbo, Coleman, and Jenkins: AN ACT relating to the Kentucky Prescription Drug Assistance Program, making an appropriation therefor, and declaring an emergency.

HB 365, by Representatives Gray and Callahan: AN ACT relating to plumbing.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 104**

State Government: **HB 340, HCR 12, HCR 13, HCR 28, HCR 29, HCR 30, HCR 10**

Education: **HB 76, HB 149**

Health and Welfare: **HB 255, HB 281, HB 304, HB 312**

Local Government: **HB 61**

The following Bill has been withdrawn from Consideration:

Health and Welfare: **HB 121**

Motions, Petitions, and Communications (Continued)

Representative Draud moved that **HB 21** and **HB 39** be withdrawn. Agreed.

Representative Coleman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation.

Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 10**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in memory of Aubrey Phillips Morris a former Constitutional Officer of this august body, whose official duties as Cloakroom Keeper were always conducted with the epitome of courtesy and graciousness. It is with the highest respect that the members join in expressing deepest sympathy to all who share in the loss of this distinguished gentleman. The devoted husband of Paulette Haggard Morris; loving father of a son, J. Dale Morris, a daughter, Suzanne M. Lamar, and a step-son, Richard D. Boggs; esteemed brother of Lawrence, Ralph, Garnett, J.R., Carroll, Shelby and Wayne Morris, and Irene Crum; and the proud grandfather of four, this loving son of the late Clarence Overstreet and Emma Thomas Morris was preceded in death by a loving wife, Doris Catlett Morris; a beloved son, David C. Morris; and two of his cherished siblings. He served his country with distinction in the United States Army during World War II, his community as a mail carrier, and in various capacities with the North Mercer Water District, Kentucky Rural Water Association, Fox Creek Rural Electric Board, Kentucky Association of Electric Cooperatives, Federated Rural Electric Insurance Boards, and Salvisa Baptist Church, where he was for many years a deacon. The members of this august body respectfully join with Representative Jack Coleman in paying tribute to this remarkable man whose generous presence and devoted service left this world a better place. Done in Frankfort, this twelfth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 10 was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 10**: J. Adams, R. Adams, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Coleman, Colter, Crall, Crenshaw, Crimm, DeWeese, Draud, Feeley, Fischer, Geveden, Gooch, Graham, Haydon, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, McKee, Miller, Moberly, Napier, Nesler, Nunn, Palmer, Palumbo, Rader, Rasche, Reinhardt, Richards, Riner, Siler, Simpson, Sims, Stewart, Tapp, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Walton, Weaver, Webb, Westrom, Wilkey, Yonts.

Representative Stumbo moved that **HB 243** be reassigned to the Committee on Seniors, Military Affairs, and Public Safety. Agreed.

Representative Stumbo moved that the rules be suspended for a Report of Committees. Agreed.

Posting of Bills for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 249, HB 303, HB 280, HB 205, HB 240, HB 241, HB 242**

Floor Amendments

The Clerk announced the filing of the following Floor Amendments to Bills:

Floor Amendment No. 1 to **HB 65**, by Representative Jordan:

On page 5, line 11, by deleting "and"; and

On page 5, between lines 11 and 12, by inserting the following:

"(p) Exclude any severance payment received by an employee of an employer that is reducing its workforce as a result of the employer entering into any national settlement agreement; and"; and

On page 5, line 12, by deleting "(p)" and inserting "(q)" in lieu thereof.

Floor Amendment No. 1 to **HB 250**, by Representative Stumbo:

On page 26, after line 19, by adding the following:

"Section 8. Whereas motor vehicle dealers across the Commonwealth have legitimate concerns that manufacturers will move swiftly to retaliate against motor vehicle dealers before the provisions of this Act could become effective, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 2 Title to **HB 250**, by Representative Stumbo:

On page 1, by amending the title to read as follows: "An Act relating to motor vehicle dealers and declaring an emergency."

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 4:** Representative Walton
- HB 6:** Representative Cornett
- HB 23:** Representative Geveden
- HB 25:** Representatives Crall, Moberly
- HB 28:** Representatives Bratcher, Cornett, Nunn, Walton, Wayne
- HB 29:** Representative Crall
- HB 43:** Representative McKee
- HB 53:** Representative Walton
- HB 59:** Representatives Bowling, Bratcher, D. D. Butler, Crall, Damron,
Ford, Palumbo, Reinhardt, T. Turner, Vincent
- HB 65:** Representatives Marcotte, Walton
- HB 70:** Representatives Baugh, Walton
- HB 76:** Representative Walton
- HB 117:** Representative Weaver
- HB 123:** Representatives L. Belcher, Bratcher, D. D. Butler, L. Clark,
DeWeese, Gooch, Haydon, Heleringer, Hoffman, Horlander, Johns,
McKee, Marzian, Tapp, Walton, Wayne, Weaver, Yonts
- HB 147:** Representatives Haydon, Rasche, Weaver
- HB 149:** Representative Crall
- HB 175:** Representative Palmer
- HB 176:** Representatives Adkins, Callahan, Nunn, Richards
- HB 180:** Representatives Alexander, Riggs, Scott, Tapp, Thompson, Wilkey
- HB 202:** Representative Colter
- HB 236:** Representatives R. Adams, Adkins, Alexander, Anderson, Bratcher,
D. D. Butler, Childers, Colter, Cornett, Damron, Haydon, Tapp,
Weaver
- HB 237:** Representative R. Adkins
- HB 250:** Representatives Cherry, Rader
- HB 255:** Representatives Alexander, R. Adams, Haydon
- HB 257:** Representatives Reinhardt, Walton
- HB 258:** Representatives Ausmus, Crimm, Gooch, Riggs
- HB 265:** Representative Vincent
- HB 267:** Representatives J. Adams, Adkins, J. Arnold, Ausmus, Crenshaw,
Feeley, Palumbo, Webb, Geveden

HB 273: Representative J. Adams
HB 295: Representative Walton
HB 298: Representative Walton
HB 309: Representatives Anderson, Ausmus, Polston
HB 312: Representatives Thompson, Walton
HB 315: Representative Vincent
HB 319: Representatives Vincent, Walton
HB 322: Representatives D. Butler, L. Clark, Horlander, Jenkins, Johns,
Jordan, Marzian, Miller, Palumbo, Riggs
HB 324: Representative L. Belcher
HJR 14: Representatives Richards, Walton

Announcements

The following meeting was announced:

Administrative Regulations Review Committee: January 13, 2000, upon adjournment, Room 129

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 14, 2000.

On the roll call the vote was **Yeas 76**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cherry, Childers, L. Clark, P. Clark, Colter, Cornett, Crenshaw, Crimm, Damron, DeWeese, Draud, Fischer, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, McKee, Miller, Moberly, Napier, Nesler, Palmer, Palumbo, Polston, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stumbo, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Walton, Wayne, Weaver, Webb, Westrom, Yonts. **Nays 8**--Bratcher, Cave, Crall, Feeley, Hoover, Nunn, Stewart, Tapp.

The motion to adjourn was adopted.

JANUARY 14, 2000
NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Collins.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 13, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of: **SB 49** and **SCR 3** (Time 10:10 a.m.)

Representative Allen moved that the rules be suspended to grant floor privileges to special guests and to act upon a Legislative Citation. Agreed.

Representative Allen moved the adoption of the following **Legislative Citation No. 11**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in honor and loving memory of Madison Adair Heaverin and to express deepest sympathy to all who share in the heartfelt loss of this beloved child, the infant daughter of Ted and Donna Heaverin. This dear child was born to parents who so truly cherished her presence and promise that upon learning, prior to her birth, that she would be lost to all who loved her either before or immediately following her birth, set out to assure that her life and the lives of other children lost prior to birth would be recognized, not by a "Report of Fetal Death," but by a "Certificate of Stillbirth." Through the cooperative and earnest efforts of both legislators and the Cabinet for Health Services, an agreement to rename the official document to reflect an acknowledgment of the love families carry for their infants prior to their birth, the Commonwealth of Kentucky now issues "Certificates of Stillbirth" as a respectful gesture to those keening with their losses. The members of the House of Representatives join with Representative Woody Allen in remembering this child for her tender and remarkable presence, with sorrow for the brevity of her journey on this earth and with sincere and heartfelt condolences to all those who hold her memory within their hearts. Done in Frankfort, this fourteenth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 11 was adopted without objection.

Representative Bowling moved that the rules be suspended to grant floor privileges to special guests and to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following **Legislative Citation No. 12**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Boyle County High School Football Team upon winning the 1999 KHSAA Class AA State Football Championship. Inasmuch as this extraordinary team, under the skilled tutelage of Head Coach Chuck Smith, has enjoyed a stellar year, finishing the season with an overall record of 15 wins and no losses, the members of this distinguished body are delighted to join with Representative John W. D. Bowling in commending the Boyle County Rebels for their well-deserved accolades and in extending best wishes for continued athletic success. Done in Frankfort, this fourteenth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 12 was adopted without objection.

Introductions of Bills

HB 366, by Representatives Wilkey, Coleman, Vincent, Callahan, and Tapp: AN ACT relating to crimes and punishments.

HB 367, by Representative Haydon: AN ACT relating to newborn children.

HB 368, by Representative Westrom: AN ACT relating to adult day health care programs and declaring an emergency.

HB 369, by Representative Stumbo: AN ACT relating to condemnation.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agricultural and Small Business: **HB 358, HCR 45**

Banking and Insurance: **HB 354**

Education: **HB 347**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 350, HB 352, HB 363**

Health and Welfare: **HB 364**

Judiciary: **HB 351, HB 355**

Labor and Industry: **HB 349, HB 365**

Local Government: **HB 348, HB 359, HB 360**

Natural Resources and Environment: **HB 357**

State Government: **HB 356, HB 362**

Tourism Development and Energy: **HB 361**

Transportation: **HB 353**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Licensing and Occupations: **HB 238, HB 294, HB 290**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 288, HB 350, HB 352, HR 43, HB 341**

Seniors, Military Affairs, and Public Safety: **HB 92, HB 139, HB 140, HB 181, HJR 5**

Health and Welfare: **HB 10**

Calendar

HB 56, HB 109, HB 115, HB 122, HB 147, HB 3, HB 9, HB 107, HB 175, HB 52, HB 70, HB 71, HB 85, HB 86, HB 87, HB 129, HB 164, and HB 229 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 49, HB 40, HB 43, HB 69, HB 72, HB 103, HB 106, HB 219, HB 232, HB 261, and HB 266** have been posted for passage in the Orders of the Day for January 18, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 174**

Orders of the Day

HB 51 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 51** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 14, 2000 roll call on **HB 51** - Appendix.)

HB 51 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 51** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 165 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 165** be passed.

Representative Heleringer moved that **HB 165** be laid on the Clerk's Desk. Rejected.

On the roll call the vote was: **Yeas 73, Nays 24.** (See January 14, 2000 roll call on **HB 165** - Appendix.)

HB 165 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 165** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 65, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected. Representative Thomas moved that **HB 65** be passed.

Representative Jordan moved the adoption of Floor Amendment No. 1 to **HB 65**.

On the roll call the vote was: **Yeas 72, Nays 22.** (See January 14, 2000 roll call to adopt Floor Amendment No. 1 to **HB 65**-Appendix.)

Floor Amendment No. 1 to **HB 65** was adopted.

Representative Thomas moved that **HB 65**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 14, 2000 roll call on **HB 65** - Appendix.)

HB 65, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 65**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 370, by Representative Coleman: AN ACT relating to emergency medical services.

HB 371, by Representatives DeWeese, Bratcher, Crall, Ford, Damron, Jenkins, L. Clark, Draud, Feeley, Crimm, Marzian, Heleringer, Tapp, and Hoover: AN ACT relating to health insurance.

HB 372, by Representative Webb: AN ACT relating to reorganization.

HB 373, by Representatives Colter, Scott, Ford, Cox, J. Turner, Graham, Gray, Polston, Westrom, Napier, Bruce, Bratcher, McKee, Gooch, Crimm, and Rader: AN ACT relating to a sick leave bank for local school district employees.

HB 374, by Representative Adkins: AN ACT relating to reorganization.

HR 46, by Representative Heleringer: A RESOLUTION amending House Rule 55.

Posting of Bills for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 301, HB 302, HB 253**

Natural Resources and Environment: **HB 357**

Motions, Petitions, and Communications (Continued)

Representative Bruce moved that he be recorded as voting "yea" on **HB 22**. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 165**. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 65**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments to Bills:

Floor Amendment No. 1 to **HB 170**, by Representative Hoover:

On page 10, lines 8 and 9, by deleting "or the mind for purposes of punishment or sadistic pleasure, or to extract information or a confession".

Floor Amendment No. 2 to **HB 170**, by Representative Hoover:

On page 2, line 21, by deleting "or other means".

Floor Amendment No. 3 to **HB 170**, by Representative Hoover:

On page 2, line 3, by inserting after "progress" the words "toward identified goals as set forth in the court-approved case plan".

Floor Amendment No. 4 to **HB 170**, by Representative Hoover:

On page 2, line 21, by deleting "or other means within the past year".

Floor Amendment No. 5 to **HB 170**, by Representative Riner:

On page 10, line 9, by inserting after the word confession, the phrase, ", but does not include the spanking of a child for the purpose of enforcing discipline and which does not produce serious physical injury".

Floor Amendment No. 6 to **HB 170**, by Representative Riner:

On page 2, between lines 6 and 7, by inserting the following:

(j) Abuse or neglect does not include keeping the child in a home which may be characterized as messy, unkempt, or disorganized, so long as the home environment does not adversely impact the health or safety of the child.

On page 2, line 2, by deleting the phrase "or"

On page 2, line 6, by inserting after the semicolon the phrase "or"

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 38:** Representative Rader
- HB 65:** Representative Moberly
- HB 67:** Representatives Ausmus, R. Adams, A. Arnold, Bowling, Bratcher, Coleman, Colter, Crall, Crimm, Damron, Feeley, Johns, Marzian, Nunn, Rader, Reinhardt, Richards, Riner, Stein, Stewart, Webb, Worthington
- HB 76:** Representatives Bowling, Palumbo
- HB 100:** Representatives J. Arnold, Bruce, Geveden, Gooch, Gray, Hoffman, Napier, Nesler, Riggs, Sims, Weaver, Westrom
- HB 115:** Representatives R. Adams, Marcotte
- HB 123:** Representatives Branham, J. Turner
- HB 147:** Representative Rader
- HB 180:** Representatives Feeley, Hoover, Walton
- HB 213:** Representative Cherry
- HB 250:** Representatives Bowling, Johns, Palumbo
- HB 258:** Representatives Cherry, Rader, Reinhardt, Tapp
- HB 265:** Representative Sims
- HB 267:** Representative Stacy
- HB 274:** Representative Cherry
- HB 315:** Representative Yonts
- HB 365:** Representative Yonts

Announcements

The following meetings were announced:

Appropriations and Revenue: January 18, 2000, 2:00 p.m., Room 131

State Government: January 18, 2000, 12:00 noon

Health and Welfare: January 18, 2000, 2:00 p.m.

Seniors, Military Affairs, and Public Safety: January 18, 2000, 2:00 p.m.

The following meeting was canceled:

Tourism, January 18, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., January 18, 2000.

On the roll call the vote was **Yeas 82**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, Coleman, Colter, Cornett, Cox, Crimm, Damron, DeWeese, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nesler, Palmer, Polston, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims,

Stein, Stumbo, Tapp, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Weaver, Westrom, Wilkey, Worthington, Yonts. Nays 5--Crall, Hoover, Nunn, Stewart, Walton.

The motion to adjourn was adopted.

JANUARY 18, 2000
TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. G. Michael Greer, Immanuel Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen, Cox, Rasche, and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 14, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Colter moved that the rules be suspended to grant floor privileges for special guests and to act upon a Legislative Citation. Agreed.

Introductions of Bills and Resolutions

HB 375, by Representative Gooch: AN ACT relating to life insurance.

HB 376, by Representative Gooch: AN ACT relating to blasting safety.

HCR 47, by Representative Graham: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Risk Management Technical Study Group to develop a standard set of issues that should be considered in the design and operation of any insurance-type program funded by the Commonwealth.

HJR 48, by Representative Colter: A JOINT RESOLUTION directing the Transportation Cabinet to name KY 118 from US 421 to the Daniel Boone Parkway (the Hyden Spur) in Leslie County in honor of Tim Couch.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 49**

Banking and Insurance: **HB 371**

Economic Development: **HB 373**

Health and Welfare: **HB 368, HB 370**

Judiciary: **HB 366, HB 367**

State Government: **HB 372, HB 374, HR 46, SCR 3**

Tourism Development and Energy: **HB 369**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **HB 15, HB 33, HB 35, HB 47, HB 124, HB 156, HB 227, HB 234, HB 315**

Agriculture and Small Business: **HB 358, HCR 45**

Report of Committees

The Committee on State Government reported **HB 191**, with Committee Substitute attached thereto, **HB 193**, **HB 194**, **HB 205**, **HB 240**, **HB 241**, **HB 242**, **HB 249**, **HB 303**, with Committee Amendment attached thereto, **HB 340**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 191, AN ACT relating to state leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.803 is amended to read as follows:

- (1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, the commissioner shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency. A copy of the notice shall be kept on file.
- (3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection ~~(16)~~~~(15)~~ of this section or pursuant to paragraph (b) of subsection ~~(17)~~~~(16)~~ of this section. The general requirement specifications shall be kept on file.
- (5)
 - (a) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall give adequate public notice to reasonably inform persons having property to let within the county of the type of space required, the general location of the property, and the number of square feet needed. The notice may include posting on the Internet or newspaper advertisements. Each notice shall contain general information concerning the agency requirements for the space sought and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be stated in the notice.
 - (b) The Department for Facilities Management may use any means available to notify landlords that a notice has been given.
- (6) A property owner, or his representative, shall respond in writing on or before the time and date designated in the notice and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the notice.
- (7) All written responses received on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department.
- (8) Within five (5) days of the opening of written responses, the department shall transmit general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be transmitted to each person.
- (9) After the general requirement specifications have been transmitted, except as provided in paragraph (a) of subsection ~~(14)~~~~(13)~~ of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the notice given pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be notified of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection ~~(13)~~~~(12)~~ of this section. A copy of each notice shall be kept on file.

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- (10) The department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or the owner's representative, shall provide access to the property for the inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.
- (11) **Based on information obtained from the property owner's response or from a site evaluation, the commissioner may eliminate from consideration properties that are impractical or not feasible for the leasing needs as set out in the notice described in subsection (4) of this section. The property owner shall be advised of his elimination and the justification for the elimination. A copy of the notification to the property owner shall be kept on file in the department.**
- (12) After the commissioner has reviewed the completed site evaluation forms, the commissioner shall inform each owner of property **not eliminated under subsection (11) of this section**, or his representative, of the steps necessary to bring the property up to general and specific requirement specifications. The commissioner shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be provided to each bidder. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated.
- ~~(13)~~~~(12)~~ All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.
- ~~(14)~~~~(13)~~ Except pursuant to paragraph (b) of subsection ~~(16)~~~~(15)~~ of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:
- (a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;
 - (b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.
- ~~(15)~~~~(14)~~ (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the general and specific requirement specifications.
- (b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.
- ~~(16)~~~~(15)~~ The commissioner, relying exclusively on his assessment made pursuant to subsection ~~(15)~~~~(14)~~ of this section, shall:
- (a) Choose the best proposal in the interest of the Commonwealth;
 - (b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or
 - (c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection ~~(15)~~~~(14)~~ of this section and may, at his discretion, initiate the lease process again.
- ~~(17)~~~~(16)~~ (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection ~~(16)~~~~(15)~~ of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection ~~(16)~~~~(15)~~ of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection ~~(16)~~~~(15)~~ of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection ~~(15)~~~~(14)~~ of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.
- (b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.
- ~~(18)~~~~(17)~~ The commissioner shall put in writing the justifications for his decisions made pursuant to subsections ~~(16)~~~~(15)~~ and ~~(17)~~~~(16)~~ of this section. This writing shall be kept on file.
- ~~(19)~~~~(18)~~ The commissioner, all department employees under the commissioner's supervision who performed a site evaluation or negotiated a lease agreement under this section, and the head of the agency that will occupy the leased space shall sign separate certificates, devised by the commissioner, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a

violation of KRS 56.800 to 56.823. The Department for Facilities Management shall keep the certificates on file.

~~(20)~~~~(19)~~ The department shall notify each person who submitted a written response on or before the time and date designated in the public notice pursuant to subsection (6) of this section, but who was not awarded the lease, of the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each notice shall state that fact. A copy of each notice shall be kept on file.

The Committee Substitute No. 1 to **HB 191** is as follows:

HB 191, AN ACT relating to state leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.803 is amended to read as follows:

- (1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, the commissioner shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency. A copy of the notice shall be kept on file.
- (3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection ~~(16)~~~~(15)~~ of this section or pursuant to paragraph (b) of subsection ~~(17)~~~~(16)~~ of this section. The general requirement specifications shall be kept on file.
- (5)
 - (a) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall give adequate public notice to reasonably inform persons having property to let within the county of the type of space required, the general location of the property, and the number of square feet needed. The notice may include posting on the Internet or newspaper advertisements. Each notice shall contain general information concerning the agency requirements for the space sought and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be stated in the notice.
 - (b) The Department for Facilities Management may use any means available to notify landlords that a notice has been given.
- (6) A property owner, or his representative, shall respond in writing on or before the time and date designated in the notice and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the notice.
- (7) All written responses received on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department.
- (8) Within five (5) days of the opening of written responses, the department shall transmit general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be transmitted to each person.
- (9) After the general requirement specifications have been transmitted, except as provided in paragraph (a) of subsection ~~(14)~~~~(13)~~ of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the notice given pursuant to subsection (5) of this section, all other persons who submitted written responses on or

before the time and date designated shall be notified of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection ~~(13)(12)~~ of this section. A copy of each notice shall be kept on file.

- (10) The department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or the owner's representative, shall provide access to the property for the inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.
- (11) **Based on information obtained from the property owner's response or from a site evaluation, the commissioner may eliminate from consideration properties that are impractical or not feasible for the leasing needs as set out in the notice described in subsection (5) of this section. The property owner shall be advised of his elimination and the justification for the elimination. A copy of the notification to the property owner shall be kept on file in the department.**
- (12) After the commissioner has reviewed the completed site evaluation forms, the commissioner shall inform each owner of property **not eliminated under subsection (11) of this section**, or his representative, of the steps necessary to bring the property up to general and specific requirement specifications. The commissioner shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be provided to each bidder. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated.
- ~~(13)(12)~~ All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.
- ~~(14)(13)~~ Except pursuant to paragraph (b) of subsection ~~(16)(15)~~ of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:
 - (a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;
 - (b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.
- ~~(15)(14)~~
 - (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the general and specific requirement specifications.
 - (b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.
- ~~(16)(15)~~ The commissioner, relying exclusively on his assessment made pursuant to subsection ~~(15)(14)~~ of this section, shall:
 - (a) Choose the best proposal in the interest of the Commonwealth;
 - (b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or
 - (c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection ~~(15)(14)~~ of this section and may, at his discretion, initiate the lease process again.
- ~~(17)(16)~~
 - (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection ~~(16)(15)~~ of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection ~~(16)(15)~~ of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection ~~(16)(15)~~ of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection ~~(15)(14)~~ of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.
 - (b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.
- ~~(18)(17)~~ The commissioner shall put in writing the justifications for his decisions made pursuant to subsections ~~(16)(15)~~ and ~~(17)(16)~~ of this section. This writing shall be kept on file.
- ~~(19)(18)~~ The commissioner, all department employees under the commissioner's supervision who performed a site

evaluation or negotiated a lease agreement under this section, and the head of the agency that will occupy the leased space shall sign separate certificates, devised by the commissioner, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a violation of KRS 56.800 to 56.823. The Department for Facilities Management shall keep the certificates on file.

~~(20)~~~~(19)~~ The department shall notify each person who submitted a written response on or before the time and date designated in the public notice pursuant to subsection (6) of this section, but who was not awarded the lease, of the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each notice shall state that fact. A copy of each notice shall be kept on file.

HB 193, AN ACT relating to state leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.803 is amended to read as follows:

- (1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, the commissioner shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency. A copy of the notice shall be kept on file.
- (3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.
- (5)
 - (a) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall give adequate public notice to reasonably inform persons having property to let within the county of the type of space required, the general location of the property, and the number of square feet needed. The notice may include posting on the Internet or newspaper advertisements. Each notice shall contain general information concerning the agency requirements for the space sought and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be stated in the notice.
 - (b) The Department for Facilities Management may use any means available to notify landlords that a notice has been given.
- (6) A property owner, or his representative, shall respond in writing on or before the time and date designated in the notice and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the notice.
- (7) All written responses received on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department.
- (8) Within five (5) days of the opening of written responses, the department shall transmit general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be transmitted to each person.
- (9) After the general requirement specifications have been transmitted, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in

the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the notice given pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be notified of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each notice shall be kept on file.

- (10) The department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or the owner's representative, shall provide access to the property for the inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.
- (11) After the commissioner has reviewed the completed site evaluation forms, the commissioner shall inform each owner of property, or his representative, of the steps necessary to bring the property up to general and specific requirement specifications. The commissioner shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be provided to each bidder. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated.
- (12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.
- (13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:
 - (a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;
 - (b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.
- (14)
 - (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the general and specific requirement specifications.
 - (b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.
- (15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:
 - (a) Choose the best proposal in the interest of the Commonwealth;
 - (b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or
 - (c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.
- (16)
 - (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.
 - (b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.
- (17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.
- (18) The commissioner, all department employees under the commissioner's supervision who performed a site evaluation or negotiated a lease agreement under this section, ~~and~~ the head of the agency that will occupy the leased space, and all agency employees who assisted department employees with a site evaluation or lease negotiations shall sign separate certificates, devised by the commissioner, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a violation of KRS 56.800 to 56.823. The Department for Facilities Management shall keep the certificates on file.
- (19) The department shall notify each person who submitted a written response on or before the time and date designated in the

public notice pursuant to subsection (6) of this section, but who was not awarded the lease, of the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each notice shall state that fact. A copy of each notice shall be kept on file.

HB 194, AN ACT relating to state leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.800 is amended to read as follows:

The Finance and Administration Cabinet shall be responsible for the lease of all real property rentals required for use by all departments, agencies, and administrative bodies of the state government listed in KRS Chapter 12 that do not have statutory authority to lease property, and no lease of real property shall be binding against the Commonwealth or any agency unless made and entered into as provided in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

Section 2. KRS 56.803 is amended to read as follows:

- (1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department ~~[at least ninety (90) calendar days before the space requested will be required by the agency]~~. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, the commissioner shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency. A copy of the notice shall be kept on file.
- (3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.
- (4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.
- (5)
 - (a) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall give adequate public notice to reasonably inform persons having property to let within the county of the type of space required, the general location of the property, and the number of square feet needed. The notice may include posting on the Internet or newspaper advertisements. Each notice shall contain general information concerning the agency requirements for the space sought and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be stated in the notice.
 - (b) The Department for Facilities Management may use any means available to notify landlords that a notice has been given.
- (6) A property owner, or his representative, shall respond in writing on or before the time and date designated in the notice and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the notice.
- (7) All written responses received on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department.
- (8) Within ~~ten (10) business~~ ~~five (5)~~ days of the opening of written responses, the department shall transmit general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be transmitted to each person.
- (9) After the general requirement specifications have been transmitted, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in

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the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the notice given pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be notified of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each notice shall be kept on file.

- (10) The department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or the owner's representative, shall provide access to the property for the inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.
- (11) After the commissioner has reviewed the completed site evaluation forms, the commissioner shall inform each owner of property, or his representative, of the steps necessary to bring the property up to general and specific requirement specifications. The commissioner shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be provided to each bidder. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated.
- (12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.
- (13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:
 - (a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;
 - (b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.
- (14)
 - (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the general and specific requirement specifications.
 - (b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.
- (15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:
 - (a) Choose the best proposal in the interest of the Commonwealth;
 - (b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or
 - (c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.
- (16)
 - (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.
 - (b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.
- (17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.
- (18) The commissioner, all department employees under the commissioner's supervision who performed a site evaluation or negotiated a lease agreement under this section, and the head of the agency that will occupy the leased space shall sign separate certificates, devised by the commissioner, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a violation of KRS 56.800 to 56.823. The Department for Facilities Management shall keep the certificates on file.
- (19) The department shall notify each person who submitted a written response on or before the time and date designated in the public notice pursuant to subsection (6) of this section, but who was not awarded the lease, of the selected property to be

leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each notice shall state that fact. A copy of each notice shall be kept on file.

- (20) Prior to finalization of the lease, the department or the leasing agency shall inspect the property to ensure that any changes described in subsection (11) of this section necessary to bring the property up to specifications have been completed in a manner satisfactory to the agency or department. At the conclusion of the inspection, the owner shall be advised in writing by the department either that the property is approved for occupancy and the lease may be finalized, or that there remain changes to be completed or corrected before the lease may be finalized.**

Section 3. KRS 56.8035 is amended to read as follows:

- (1) When the Department for Facilities Management solicits for procurement of leased office space under the provisions of KRS 56.803, a proposal for new construction shall be considered if it does not contain any provision for a lease-purchase or an option to purchase.
- (2) The Department for Facilities Management shall only consider a proposal for construction of leased office space with provision for lease-purchase or option to purchase if the proposal is submitted in response to a solicitation for proposals for built-to-suit leases in accordance with KRS 56.8169.
- (3) A building constructed and leased to the Commonwealth under this section shall be constructed:**
 - (a) In accordance with all applicable state and national safety, building, and construction code requirements; and**
 - (b) To last for a minimum of thirty (30) years.**

Section 4. KRS 56.806 is amended to read as follows:

- (1) Except when another lease term is approved by the secretary of the Finance and Administration Cabinet, the terms of all leases entered into pursuant to KRS 56.803 or 56.805 may provide for an initial lease term beginning on a date stated and ending on June 30 in each year in which the General Assembly has convened in regular session and appropriated funds for the operation of the state government during the next ensuing biennium. The leases may grant the state successive options for the automatic renewal of the lease upon the same terms and conditions for additional renewal periods of twenty-four (24) months each, not to exceed three (3) automatic renewal periods. Any lease containing provision for the automatic renewal of the lease after the expiration of the initial lease term shall also provide that the state may, upon written notice given to the lessor on or before April 15 of the year in which the initial or any automatic renewal term expires, elect not to exercise its option for the automatic renewal of the lease term. Subject to the agreement of the lessor, a lease in which the final automatic renewal period has expired, or will expire as of the end of the then current term, may be renewed upon the same terms and conditions, provisions of KRS 56.803 to the contrary notwithstanding.
- (2) The Department for Facilities Management shall comply with the provisions of this subsection when calculating rentable area for the purposes of a lease.
 - (a) If the Commonwealth is the only tenant on a single floor of a multistory building, the rentable area shall be the entire area described by measuring to the inside finished surface of the dominant portion of the permanent outer building walls, excluding any major vertical penetrations of the floor which shall include, but not be limited to, stairways, elevator shafts, pipe chases, vertical air ducts, and the enclosing wall of all such excluded areas. Restrooms, corridors, and utility rooms which exclusively serve the floor occupied by the Commonwealth shall be included as part of the rentable area.
 - (b) If the Commonwealth is the only tenant in a one (1) story or multistory building, rentable area shall be calculated pursuant to the provisions of paragraph (a) of this subsection except that those areas excluded pursuant to paragraph (a) shall be included as part of the rentable area.
 - (c) If the Commonwealth shares a floor with one (1) or more other tenants, the rentable area shall be calculated by measuring from the inside finished surface of the dominant portion of the permanent outer building walls to the office side of every corridor wall or other wall separating the Commonwealth's leased space from other adjacent rentable areas which shall include, but not be limited to, space under the control of another tenant, public corridors, restrooms, all common service and utility areas, stairways, elevator shafts, vertical pipe chases, and air ducts.
 - (d) The Commonwealth's rentable area determined pursuant to paragraphs (a), (b), and (c) of this subsection shall include columns and projections necessary to the building.
- (3) The Finance and Administration Cabinet may include in a lease an option to purchase the leased property or a lease-purchase of the leased property.
- (4) If the Finance and Administration Cabinet exercises an option to purchase leased property, the option price shall not exceed the fair market value of the leased property as of the time the lessor and the Commonwealth enter into the option. Two (2) competent and qualified real estate appraisers shall each determine the fair market value. Each real estate appraiser shall be selected by the Finance and Administration Cabinet and shall employ an accepted appraisal technique.
- (5) (a) Except as provided in paragraph (b) of this subsection, if the Finance and Administration Cabinet includes in a lease the lease-purchase of the leased property, two (2) competent and qualified real estate appraisers shall each

determine the fair market value of the leased property as of the time the lessor and the Commonwealth enter into the lease. Each appraiser shall be selected by the Finance and Administration Cabinet and shall employ an accepted appraisal technique. The lease shall provide for an initial lease term ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with the option of the Commonwealth, as lessee, to extend the term of the lease for a term of two (2) years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years agreed upon by the parties. The agreed rental paid for the original term and for each of the full number of years for which the term of the lease may be extended shall amortize the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease. The lease shall provide that the Commonwealth may, at the expiration of the original or any extended term, purchase the leased property at a stated price, which shall be the balance of the fair market value of the leased property as of the time the lease was entered into which has not been amortized by the payments of rent previously made by the Commonwealth.

- (b) If the Finance and Administration Cabinet includes lease-purchase of the leased property in a lease with the federal government, the terms of the lease-purchase shall be determined through negotiations between the Commonwealth and the federal government.
- (6) Except when a lease incorporates a lease-purchase pursuant to subsection (5) of this section, the Commonwealth shall reserve the right to cancel a lease upon written notice within thirty (30) ~~days~~, ~~sixty (60), or ninety (90) days, whichever is specified in the lease agreement~~.

HB 205, AN ACT relating to the Consumers' Advisory Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.130 is amended to read as follows:

- (1) The members of the Consumers' Advisory Council shall be sixteen (16) in number and shall be appointed by the Governor and shall include citizens of Kentucky generally knowledgeable in consumer affairs.
- (2) In addition to the members appointed by the Governor, the Attorney General shall be an ex officio member and shall serve as the chairman of the Consumers' Advisory Council.
- (3) The members of the council other than the Attorney General shall be appointed *or reappointed* by the Governor within sixty (60) days after July 1, ~~2000~~~~[1972]~~. Each member shall serve for a ~~three (3)~~~~one (1)~~ year term, *except that of the members first appointed or reappointed after July 1, 2000, six (6) shall be appointed for a term of one (1) year, five (5) shall be appointed for a term of two (2) years, and five (5) shall be appointed for a term of three (3) years. Members of the council and* shall be eligible for reappointment by the Governor.
- (4) Each member of the Consumers' Advisory Council shall be a resident of Kentucky, and except for the Attorney General, shall not be in the employ of the Commonwealth, except as a faculty member or on the staff of a school.

HB 240, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The Office of Early Childhood Development is hereby created within the Office of the Governor. The office shall be headed by an executive director, who shall be appointed by the Governor in accordance with KRS 11.040 and shall serve at the pleasure of and under the direction of the Governor.

- (1) *The office's duties, rights, and responsibilities shall include, but not be limited to, the following:*

- (a) *Provide assistance to the Governor's Early Childhood Task Force in accomplishing its mission and charge as set forth in Executive Order 99-351;*
- (b) *Create a strategic plan to design Kentucky's early childhood development efforts toward assisting families and enhancing opportunities for young children to succeed as citizens;*
- (c) *Craft coordination and collaboration between Kentucky communities, various levels of state and local government, nonprofit organizations, businesses, health organizations, churches, and parents to provide integrated and comprehensive services for all families that undergird the early development of children;*
- (d) *Identify and assess the most common challenges, existing resources, and services within the state and make recommendations to the Governor, state legislature, or other governing bodies regarding the demand and effectiveness of present services and improvements that should be addressed;*
- (e) *Develop performance measures that will provide consistent and fair evaluation and accountability regarding the effectiveness of service providers, programs, activities, and services affecting early childhood development;*
- (f) *Design information campaigns to raise public awareness and promote citizen engagement regarding the critical*

nature of early childhood development and to increase the will of citizens to make quality resources and services more widely available to families and children;

(g) Create the beginning of a seamless system for youth that will assist them from birth until they begin their careers; and

(h) Undertake new and progressive initiatives to improve and enhance the delivery of services affecting early childhood development.

(2) The executive director may, at the request of the Governor or any cabinet secretary, serve as a designee on boards, commissions, task forces, or other committees addressing issues relating to early childhood development.

(3) The Finance and Administration Cabinet, the Governor's Office of Policy and Management, and the Personnel Cabinet shall take all steps necessary to effectuate the provisions of this section.

(4) The Governor shall appoint a special advisor to serve the Office of Early Childhood Development.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Council on Postsecondary Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Kentucky Commission on Human Rights;
- (5) Kentucky Commission on Women;
- (6) Kentucky Commission on Military Affairs;
- (7) Coal Marketing and Export Council;
- (8) Governor's Office of Child Abuse and Domestic Violence Services;
- (9) Office of the Chief Information Officer; ~~and~~
- (10) Office of Coal Marketing and Export; and
- (11) Office of Early Childhood Development.*

Section 3. The General Assembly hereby confirms Executive Order 99-1513, dated November 12, 1999, which created and established the Office of Early Childhood Development within the Office of the Governor, to the extent it is not otherwise confirmed or superseded by this Act.

HB 241, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.4588 is amended to read as follows:

- (1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.
- (2) Grants obtained under this program shall be used for:
 - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the *executive director of the Office of Coal County Development* ~~secretary of the Cabinet for Economic Development~~;
 - (b) Industrial development projects if the *executive director of the Office of Coal County Development* ~~in~~ ~~secretary of~~ the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the *executive director of the Office of Coal County Development* ~~in~~ ~~secretary of~~ the Cabinet for Economic Development; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the *executive director of the Office of Coal County Development* ~~in~~ ~~secretary of~~ the Cabinet for Economic Development under the provisions of subsection (3) of this section.
- (3) The *executive director of the Office of Coal County Development* ~~in~~ ~~secretary of~~ the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the *executive director* ~~secretary~~ finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The *executive director* ~~secretary~~ may also approve privately-owned facilities for transient lodging and recreation where the *executive director* ~~secretary~~ finds that

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the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.

- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the executive director of the Office of Coal County Development ~~in[secretary of]~~ the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (7) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
- (8) Approval of grant applications shall be by the executive director of the Office of Coal County Development ~~in[secretary of]~~ the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.
- (9) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:
 - (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
 - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- (10) For purposes of this section:
 - (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; and other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; job development incentive grants;
 - (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section; and
 - (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least

one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Cabinet for Economic Development shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met.

- (11) Findings by the executive director of the Office of Coal County Development ~~in [secretary of]~~ the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (12) By October 1 of each odd-numbered year, the executive director of the Office of Coal County Development ~~in [secretary of]~~ the Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

HB 242, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

- (1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.
- (2) There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.
- (3) There is hereby created a Division of School Services within the Department for Technical Education. The Division of School Services shall be headed by a director appointed by the commissioner of the Department for Technical Education under KRS 12.050. The Division of School Services shall be composed of such organizational entities as deemed appropriate by the Secretary of the Cabinet for Workforce Development as set forth by administrative order ~~an Office of Area Vocational Education and Technology Centers within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated secondary area vocational education and technology centers. The office shall be composed of the Division of School Management, the Division of Curriculum Services, an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall~~

~~be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.~~

(4) The commissioner shall appoint an Ombudsman, and specify his functions and duties.

Section 2. The General Assembly confirms Executive Order 98-1595, dated December 3, 1998, as amended by Executive Order 99-1597, dated December 3, 1999, to the extent that it is not otherwise confirmed by this Act.

HB 249, AN ACT relating to procurement authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.100 is amended to read as follows:

- (1) Procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:
 - (a) Up to ten thousand dollars (\$10,000) per project for construction and one thousand dollars (\$1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraphs (b) and (c) of this subsection; and
 - (b) Up to ~~forty-two~~ thousand dollars ~~(\$40,000)~~~~(\$20,000)~~ per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.
- (2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.
- (3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

Section 2. KRS 56.491 is amended to read as follows:

- (1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than ~~two~~~~(one)~~ hundred ~~and twenty-five~~ thousand dollars ~~(\$200,000)~~~~(\$125,000)~~ without first securing the approval of the Finance and Administration Cabinet.
- (2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Department of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.
- (3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.
- (4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed ~~two~~~~(one)~~ hundred ~~and twenty-five~~ thousand dollars ~~(\$200,000)~~~~(\$125,000)~~, shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.

- (5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed ~~two [one] hundred [and twenty-five] thousand dollars (\$200,000) [(\$125,000)]~~, may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.
- (6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.
- (7) This section shall not apply to capital outlays by the Justice Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice Cabinet shall be approved and authorized by the Finance and Administration Cabinet.

HB 303, AN ACT relating to representative districts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 5.208 is amended to read as follows:

The Eighth Representative District shall consist of the following territory:

---CENSUS---

COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
CHRISTIAN	A101		COURTHOUSE			
CHRISTIAN	A102		FARMERS LOOSE FLOOR			
CHRISTIAN	A103		BELMONT SCHOOL			
CHRISTIAN	A104		HOPKINSVILLE SIGN CO.			
CHRISTIAN	B101		MIDDLE SCHOOL			
CHRISTIAN	B102		ARMORY			
CHRISTIAN	C101		SECOND BAPTIST ACTIVITIES			
CHRISTIAN	C102		INDIAN HILLS			
CHRISTIAN	C103		FRIENDSHIP HOUSE 1			
CHRISTIAN	C104		SQUARE DEAL			
CHRISTIAN	C105		SINKING FORK SCHOOL	2008	301B	
CHRISTIAN	C105		SINKING FORK SCHOOL	2008	302	
CHRISTIAN	C105		SINKING FORK SCHOOL	2009	247	
CHRISTIAN	C105		SINKING FORK SCHOOL	2009	248	
CHRISTIAN	C105		SINKING FORK SCHOOL	2009	249	
CHRISTIAN	D101		FRIENDSHIP HOUSE 2			
CHRISTIAN	D102		MILLBROOKE SCHOOL			
CHRISTIAN	D103		LUTHERAN CHURCH			
CHRISTIAN	D104		HERNDON	2005	213B	
CHRISTIAN	D104		HERNDON	2005	307	0201
CHRISTIAN	D104		HERNDON	2005	311	
CHRISTIAN	D104		HERNDON	2006	115B,	
<u>BUT ONLY THAT PORTION LYING NORTH OF THE SEGMENT OF THE JANUARY 1, 2000 HOPKINSVILLE CITY LIMITS LYING NORTH OF AND PARALLEL TO LOVERS LANE AND EXTENDING IN A STRAIGHT LINE WEST FROM THE SOUTH FORK OF LITTLE RIVER TO LAFAYETTE ROAD</u>						
CHRISTIAN	D104		HERNDON	2006	119	
CHRISTIAN	D104		HERNDON	2006	215A	0202
CHRISTIAN	D104		HERNDON	2006	216A	0501
CHRISTIAN	D106		ROEDERS			
CHRISTIAN	E101		HANCOCK-COOPER			
CHRISTIAN	E102		BAPTIST LIFE CENTER			
CHRISTIAN	E103		MORNINGSIDE SCHOOL			

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CHRISTIAN	E104	HOPKINSVILLE HIGH SCHOOL			
CHRISTIAN	E105	HOPKINSVILLE HIGH SCH #2			
CHRISTIAN	F102	SOUTH PEMBROKE	2003	508A	
CHRISTIAN	F102	SOUTH PEMBROKE	2003	508C	0201,
<u>BUT ONLY THAT PORTION LYING WITHIN THE JANUARY 1, 2000 HOPKINSVILLE CITY LIMITS</u>					
CHRISTIAN	G101	HAMMOND PLAZA			
CHRISTIAN	G102	SKYLINE DRIVE			
CHRISTIAN	G103	MORRIS			
CHRISTIAN	H101	LAMB'S GARAGE	2001	101	0301
CHRISTIAN	H101	LAMB'S GARAGE	2001	102	
CHRISTIAN	H101	LAMB'S GARAGE	2001	108	0202
CHRISTIAN	H101	LAMB'S GARAGE	2001	109	0202
CHRISTIAN	H101	LAMB'S GARAGE	2001	115	0202
CHRISTIAN	H101	LAMB'S GARAGE	2001	199	
CHRISTIAN	H101	LAMB'S GARAGE	2003	102	
CHRISTIAN	H101	LAMB'S GARAGE	2003	103	
CHRISTIAN	H101	LAMB'S GARAGE	2003	104	0202
CHRISTIAN	H101	LAMB'S GARAGE	2003	105	
CHRISTIAN	H101	LAMB'S GARAGE	2003	107	0402
CHRISTIAN	H101	LAMB'S GARAGE	2003	108	
~~CHRISTIAN~~	~~H101~~	~~LAMB'S GARAGE~~	~~2003~~	~~109~~	
~~CHRISTIAN~~	~~H101~~	~~LAMB'S GARAGE~~	~~2003~~	~~110~~	
CHRISTIAN	H101	LAMB'S GARAGE	2003	111	
CHRISTIAN	H101	LAMB'S GARAGE	2003	113	0202
CHRISTIAN	H101	LAMB'S GARAGE	2003	114	
CHRISTIAN	H101	LAMB'S GARAGE	2003	115	
CHRISTIAN	H101	LAMB'S GARAGE	2003	116	
CHRISTIAN	H101	LAMB'S GARAGE	2003	117	0201
CHRISTIAN	H101	LAMB'S GARAGE	2003	120	
CHRISTIAN	H101	LAMB'S GARAGE	2003	124A	0503
~~CHRISTIAN~~	~~H101~~	~~LAMB'S GARAGE~~	~~2003~~	~~121~~	
~~CHRISTIAN~~	~~H101~~	~~LAMB'S GARAGE~~	~~2003~~	~~122~~	
~~CHRISTIAN~~	~~H101~~	~~LAMB'S GARAGE~~	~~2003~~	~~123~~	
CHRISTIAN	H101	LAMB'S GARAGE	2003	124A	0505
~~CHRISTIAN~~	~~H101~~	~~LAMB'S GARAGE~~	~~2003~~	~~124B~~	
CHRISTIAN	H101	LAMB'S GARAGE	2003	125	
CHRISTIAN	H101	LAMB'S GARAGE	2003	127	0202
CHRISTIAN	H101	LAMB'S GARAGE	2003	128	
CHRISTIAN	H101	LAMB'S GARAGE	2003	130	0201
CHRISTIAN	H101	LAMB'S GARAGE	2003	312	0201
CHRISTIAN	H101	LAMB'S GARAGE	2003	313	0202
CHRISTIAN	H104	PILOT ROCK	2003	201	0202
TRIGG	D101	CERULEON			
TRIGG	D102	WALLONIA			
TRIGG	E101	CALEDONIA-ROARING SPRINGS			
TRIGG	E102	MONTGOMERY			
TRIGG	E103	CALEDONIA			
TRIGG	F101	LINTON-MAGGIE			

TRIGG X001 FORT CAMPBELL MILIT. RES.

Section 2. KRS 5.209 is amended to read as follows:

The Ninth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
CHRISTIAN	B103		CONSOLATION			
CHRISTIAN	C105		SINKING FORK SCHOOL	<u>2009</u>	<u>121</u>	<u>0201</u>
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>128</u>	<u>0201</u>
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>129</u>	<u>0201</u>
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>130</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>131</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>132</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>133</u>	<u>0201</u>
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>141</u>	<u>0201</u>
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>144</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>146</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>147</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>148</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>149</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>150</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>151</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>153</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>154</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>201</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>202</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>203</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>204</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>205</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>206</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>207</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>208</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>209</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>210</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>211</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>212</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>213</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>214</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>215</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>218</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>219</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>220</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>221</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>222</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>223</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>225</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>226</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>227</u>	
<u>CHRISTIAN</u>	<u>C105</u>		<u>SINKING FORK SCHOOL</u>	<u>2009</u>	<u>228</u>	

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CHRISTIAN	C105	SINKING FORK SCHOOL	2009	229	
CHRISTIAN	C105	SINKING FORK SCHOOL	2009	230	
CHRISTIAN	C105	SINKING FORK SCHOOL	2009	231	
CHRISTIAN	C105	SINKING FORK SCHOOL	2009	232	
CHRISTIAN	C105	SINKING FORK SCHOOL	2009	233	
CHRISTIAN	C105	SINKING FORK SCHOOL	2009	234	
CHRISTIAN	C105	SINKING FORK SCHOOL	2009	235	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	140	0201
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	141	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	142	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	143	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	144	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	145	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	146	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	147	0201
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	148	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	179	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	180	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	181	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	182	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	183	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	184	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	185	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	186	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	187	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	188	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	217	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	218	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	219	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	220	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	221	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	222	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	223	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	224	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	225	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	226	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	227	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	228	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	229	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	230	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	231	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	232	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	233	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	234	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	235	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	236	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	237	
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	238	

CHRISTIAN	C105	SINKING FORK SCHOOL	2010	239
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	240
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	241
CHRISTIAN	C105	SINKING FORK SCHOOL	2010	242
CHRISTIAN	D104	HERNDON	2005	312
CHRISTIAN	D104	HERNDON	2005	313
CHRISTIAN	D104	HERNDON	2005	314
CHRISTIAN	D104	HERNDON	2006	115B,

BUT ONLY THAT PORTION LYING SOUTH OF THE SEGMENT OF THE JANUARY 1, 2000 HOPKINSVILLE CITY LIMITS LYING NORTH OF AND PARALLEL TO LOVERS LANE AND EXTENDING IN A STRAIGHT LINE WEST FROM THE SOUTH FORK OF LITTLE RIVER TO LAFAYETTE ROAD

CHRISTIAN	D104	HERNDON	2006	118	
CHRISTIAN	D104	HERNDON	2006	120	
CHRISTIAN	D104	HERNDON	2006	121	
CHRISTIAN	D104	HERNDON	2006	122	
CHRISTIAN	D104	HERNDON	2006	123	
CHRISTIAN	D104	HERNDON	2006	124	
CHRISTIAN	D104	HERNDON	2006	215B	0202
CHRISTIAN	D104	HERNDON	2006	216B	
CHRISTIAN	D104	HERNDON	2006	220	
CHRISTIAN	D104	HERNDON	2006	221	
CHRISTIAN	D104	HERNDON	2009	307	0201
CHRISTIAN	D104	HERNDON	2009	308	0202
CHRISTIAN	D104	HERNDON	2014	121	
CHRISTIAN	D104	HERNDON	2014	122	
CHRISTIAN	D104	HERNDON	2014	123	
CHRISTIAN	D104	HERNDON	2014	124	
CHRISTIAN	D104	HERNDON	2014	128	
CHRISTIAN	D104	HERNDON	2014	129	
CHRISTIAN	D104	HERNDON	2014	130	
CHRISTIAN	D104	HERNDON	2014	131	
CHRISTIAN	D104	HERNDON	2014	132	
CHRISTIAN	D104	HERNDON	2014	133	0201
CHRISTIAN	D104	HERNDON	2014	135	0202
CHRISTIAN	D104	HERNDON	2014	199K	
CHRISTIAN	D104	HERNDON	2014	199N	
CHRISTIAN	D104	HERNDON	2014	199P	
CHRISTIAN	D104	HERNDON	2014	199T	
CHRISTIAN	D104	HERNDON	2014	199U	
CHRISTIAN	D104	HERNDON	2014	201	
CHRISTIAN	D104	HERNDON	2014	202	
CHRISTIAN	D104	HERNDON	2014	203	
CHRISTIAN	D104	HERNDON	2014	204	
CHRISTIAN	D104	HERNDON	2014	205	
CHRISTIAN	D104	HERNDON	2014	206	
CHRISTIAN	D104	HERNDON	2014	207	
CHRISTIAN	D104	HERNDON	2014	208	
CHRISTIAN	D104	HERNDON	2014	209	

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<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>210</i>	<i>0301</i>
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>211</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>212</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>213</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>216</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>217</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>219</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>220</i>	<i>0202</i>
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>224</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>227</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>271B</i>	<i>0201</i>
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>299</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>299</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>299</i>	
<i>CHRISTIAN</i>	<i>D104</i>	<i>HERNDON</i>	<i>2014</i>	<i>299</i>	
CHRISTIAN	D105	LAFAYETTE			
CHRISTIAN	F101	NORTH PEMBROKE			
CHRISTIAN	F102	SOUTH PEMBROKE	<i>2003</i>	<i>506B</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2003</i>	<i>508C</i>	<i>0201,</i>
<i>BUT ONLY THAT PORTION LYING OUTSIDE THE JANUARY 1, 2000 HOPKINSVILLE CITY LIMITS</i>					
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2003</i>	<i>507</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2003</i>	<i>510</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2003</i>	<i>512</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2003</i>	<i>515</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2003</i>	<i>516</i>	
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<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2013</i>	<i>111</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2013</i>	<i>112</i>	
<i>CHRISTIAN</i>	<i>F102</i>	<i>SOUTH PEMBROKE</i>	<i>2013</i>	<i>113</i>	
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CHRISTIAN	X077	CAMPBELL MILITARY RES.
CHRISTIAN	X078	CAMPBELL MILITARY RES.
CHRISTIAN	X079	CAMPBELL MILITARY RES.
CHRISTIAN	X080	CAMPBELL MILITARY RES.
CHRISTIAN	X081	CAMPBELL MILITARY RES.
CHRISTIAN	X082	CAMPBELL MILITARY RES.
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CHRISTIAN	X084	CAMPBELL MILITARY RES.
CHRISTIAN	X085	CAMPBELL MILITARY RES.
CHRISTIAN	X086	CAMPBELL MILITARY RES.
CHRISTIAN	X087	CAMPBELL MILITARY RES.
CHRISTIAN	X088	CAMPBELL MILITARY RES.
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CHRISTIAN	X091	CAMPBELL MILITARY RES.
HOPKINS	F105	ILSLEY

Section 3. Whereas the filing deadline for state representative elections is January 25, 2000, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 to **HB 303** is as follows:

On page 2, by inserting the following between lines 23 and 24:

CHRISTIAN H101 LAMB'S GARAGE 2001 107 0202

and, on page 13, by removing the closing bracket, "]" ,on line 15; and

by striking through line 16; and

by removing the opening bracket, "[", on line 17.

HB 340, AN ACT relating to personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- (3) "Board" means the Personnel Board created by KRS 18A.045;
- (4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;
- (5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;
- (6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;
- (8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;
- (11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;
- (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- (13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;
- (14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;
- (15) "Full-time employee" means an employee in a full-time position;
- (16) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:
 - (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and
 - (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;
- (17) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;
- (18) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;
- (19) "Interim position" means a position established to address a one time or recurring need of less than nine (9) months

duration and exempt from the classified service under KRS 18A.115;

- (20) "Part-time employee" means an employee in a part-time position;
 - (21) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
 - (22) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;
 - (23) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;
 - (24) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;
 - (25) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
 - (26) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;
 - (27) "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;
 - (28) "Reemployment" shall mean the rehiring of an employee with status who has been laid off;
 - (29) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
 - (30) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;
 - (31) "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;
 - (32) **"Reversion" means either the returning of a status employee to his or her last position held in the classified service or the returning of a status employee to a position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation is not a penalization and may only be appealed to the Personnel Board under KRS 18A.095(13);**
 - (33) "Seniority" means the total number of months of state service;
 - ~~(34)~~~~(33)~~ "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;
 - ~~(35)~~~~(34)~~ "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.
- Section 2. KRS 18A.0751 is amended to read as follows:
- (1) The board shall promulgate comprehensive administrative regulations for the classified service governing:
 - (a) Appeals by state employees;
 - (b) Demotion;
 - (c) Dismissal;
 - (d) Fines, suspensions, and other disciplinary measures;
 - (e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;
 - (f) Promotion;
 - (g) Reinstatement;
 - (h) Transfer; and

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- (i) Employee grievances and complaints.
- (2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
- (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
- (c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.
- (3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:
 - (a) The secretary shall review the administrative regulation proposed by the board not ~~more~~^{less} than twenty (20) days after its submission to him;
 - (b) Not ~~more~~^{less} than five (5) days after his review, the secretary shall submit his recommendations in writing to the board;
 - (c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and
 - (d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (4) These administrative regulations shall provide:
 - (a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;
 - (b) For reduction in rank or grade as provided by this chapter;
 - (c) For discharge, as provided by this section;
 - (d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;
 - (e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:
 - 1. The job classification for which an initial probationary period in excess of six (6) months is required; and
 - 2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;
 - (f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;
 - (g) For reemployment of laid-off employees in accordance with the provisions of this chapter;
 - (h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);
 - (i) For establishment of a plan for resolving employee grievances and complaints. This plan shall not restrict rights granted employees by the provisions of this chapter;
 - (j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and
 - (k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 3. KRS 18A.080 is amended to read as follows:

- (1) Except as provided in KRS 18A.200, members of the board shall receive compensation of one hundred dollars (\$100)~~sixty-five dollars (\$65)~~ per diem for each meeting of the board and reimbursement for actual and necessary expenses in accordance with state regulations and standards applicable to state employees.
- (2) In addition to payments for attendance at board meetings all board members may also be paid one hundred dollars

~~(\$100)~~~~sixty-five dollars (\$65)~~ for each day spent in the preparation of recommended orders, the review of transcripts or other matters related to appeals before the board.

- (3) Any board member missing three (3) consecutive regular meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in KRS 18A.050(2) and 18A.060.

The Committee Substitute No. 1 to **HB 340** is as follows:

HB 340, AN ACT relating to personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- (3) "Board" means the Personnel Board created by KRS 18A.045;
- (4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;
- (5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;
- (6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;
- (8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;
- (11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;
- (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- (13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;
- (14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;
- (15) "Full-time employee" means an employee in a full-time position;
- (16) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:
 - (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and
 - (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;
- (17) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary

period served by a laid-off employee who accepts a bona fide written offer of appointment;

- (18) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;
- (19) "Interim position" means a position established to address a one time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;
- (20) "Part-time employee" means an employee in a part-time position;
- (21) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
- (22) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;
- (23) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;
- (24) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;
- (25) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
- (26) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;
- (27) "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;
- (28) "Reemployment" shall mean the rehiring of an employee with status who has been laid off;
- (29) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- (30) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;
- (31) "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;
- (32) **"Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095(13);**
- (33) "Seniority" means the total number of months of state service;
- ~~(34)~~~~(33)~~ "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;
- ~~(35)~~~~(34)~~ "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 2. KRS 18A.0751 is amended to read as follows:

- (1) The board shall promulgate comprehensive administrative regulations for the classified service governing:
 - (a) Appeals by state employees;
 - (b) Demotion;
 - (c) Dismissal;
 - (d) Fines, suspensions, and other disciplinary measures;
 - (e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;

- (f) Promotion;
 - (g) Reinstatement;
 - (h) Transfer; and
 - (i) Employee grievances and complaints.
- (2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
- (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
- (c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.
- (3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:
- (a) The secretary shall review the administrative regulation proposed by the board not ~~more~~ ~~less~~ than twenty (20) days after its submission to him;
 - (b) Not ~~more~~ ~~less~~ than five (5) days after his review, the secretary shall submit his recommendations in writing to the board;
 - (c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and
 - (d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (4) These administrative regulations shall provide:
- (a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;
 - (b) For reduction in rank or grade as provided by this chapter;
 - (c) For discharge, as provided by this section;
 - (d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;
 - (e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:
 - 1. The job classification for which an initial probationary period in excess of six (6) months is required; and
 - 2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;
 - (f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;
 - (g) For reemployment of laid-off employees in accordance with the provisions of this chapter;
 - (h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);
 - (i) For establishment of a plan for resolving employee grievances and complaints. This plan shall not restrict rights granted employees by the provisions of this chapter;
 - (j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and
 - (k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 3. KRS 18A.080 is amended to read as follows:

- (1) Except as provided in KRS 18A.200, members of the board shall receive compensation of one hundred dollars (\$100)~~[sixty-five dollars (\$65)]~~ per diem for each meeting of the board and reimbursement for actual and necessary expenses in accordance with state regulations and standards applicable to state employees.
- (2) In addition to payments for attendance at board meetings all board members may also be paid one hundred dollars (\$100)~~[sixty-five dollars (\$65)]~~ for each day spent in the preparation of recommended orders, the review of transcripts or other matters related to appeals before the board.
- (3) Any board member missing three (3) consecutive regular meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in KRS 18A.050(2) and 18A.060.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 92, HB 139, HB 140, HB 181, and HJR 5**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 92, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

- (1) Office of Management and Administration, containing the:
 - (a) Division of Administrative Services;
 - (b) Division of Facilities;
 - (c) Bluegrass Station Division; and
 - (d) Division of Air Transport;
- (2) Division of Disaster and Emergency Services;
- (3) Office of the Chief of Staff for Federal Army Guard;
- (4) Office of the Chief of Staff for Federal Air Guard;~~[and]~~
- (5) Kentucky Guard Youth Challenge Division; and
- (6) Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 2. The General Assembly hereby confirms Executive Order 98-1397, issued by the Governor on October 19, 1998, to the extent that it is not otherwise confirmed by Section 1 of this Act.

HB 139, AN ACT relating to veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.300 is repealed, reenacted as a new section of KRS Chapter 40 and amended to read as follows:

- (1) There is created the Department of Veterans' Affairs, which shall be attached to the Office of the Governor for administrative purposes. Notwithstanding KRS 12.028, the department's status as a separate organizational unit attached to the Office of the Governor shall not be changed except by action of the General Assembly. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The Office of the Commissioner is created within the department.
- (2) The Department of Veterans' Affairs shall include the Advisory Board for Veterans' Affairs established by Section 2 of this Act~~[KRS 36.310]~~.
- (3) The Department of Veterans' Affairs shall be responsible for providing services to veterans in accordance with Section 3 of this Act~~[KRS 36.330]~~ and Section 5 of this Act~~[36.350]~~ to Section 8 of this Act~~[36.370]~~.

Section 2. KRS 36.310 is repealed and reenacted as a new section of KRS Chapter 40 to read as follows:

- (1) There is created a board to be known as the Advisory Board for Veterans' Affairs which shall be attached to the Department of Veterans' Affairs. The board shall be composed of five (5) members appointed by the Governor. Two (2) of said members shall serve for a period of three (3) years, two (2) for a period of two (2) years and one (1) for a period of one (1) year and all shall serve until their successors are appointed, and with all appointments after the original

appointments being for three (3) years. It is further provided that said appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. Insofar as practicable, the Governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans' organizations active in Kentucky, based on size of the membership of such organizations in this state. The state headquarters of each said major veterans' organization may, from time to time, submit a list of not more than three (3) names to the Governor from which list original appointments may be made and vacancies filled in his discretion.

- (2) Members of the board shall meet at least once every two (2) months at the Department of Veterans' Affairs, and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.
- (3) Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to the Finance and Administration Cabinet regulations.
- (4) At its first meeting the members of the board shall select a chairman, vice chairman and secretary from among the members.
- (5) The board shall advise the Governor and the commissioner of the Department of Veterans' Affairs on the administration of veterans' services programs.
- (6) The board shall advise the General Assembly on matters relating to veterans' affairs.

Section 3. KRS 36.330 is repealed, reenacted as a new section of KRS Chapter 40 and amended to read as follows:

- (1) The Department of Veterans' Affairs shall collect all necessary data and information regarding facilities and services available to veterans, their families, and dependents, and shall cooperate with all information or service agencies throughout the state in informing such persons regarding the existence or availability of all educational, training, and retraining facilities; health, medical, rehabilitation, and housing services and facilities; employment and reemployment services; provisions of federal, state, and local laws affording rights, privileges, and benefits to said persons, their families, and dependents, and all other matters of similar related or appropriate nature. It shall likewise be the duty of the department to assist veterans and their families and dependents in the presentation, proof, and establishment of all claims, privileges, rights, and other benefits which they may have under federal, state, or local laws, and to cooperate with all national, state, and local government and private agencies securing services or any benefits to veterans, their families, and dependents.
- (2) The commissioner of the Department of Veterans' Affairs shall prepare and submit to the Governor and each member of the board an annual report with reference to claims presented on behalf of veterans and to otherwise report the activities and accomplishments of the department.
- (3) The Department of Veterans' Affairs shall be authorized to apply for and accept gifts, grants, and other contributions from the federal government, or from any other governmental unit which funds shall be administered by the department through use of trust and agency accounts.
- (4) Veterans as used in Section 2 of this Act ~~[KRS 36.310]~~ to Section 3 of this Act ~~[36.330]~~ include any individual who served on active duty during peace or war in the Armed Forces of the United States, and who has received an honorable discharge from such service.
- (5) The Department of Veterans' Affairs shall maintain full, adequate, and complete copies of all records pertaining to claims of veterans who file said claims for benefits through the department.
- (6) The commissioner of the Department of Veterans' Affairs may purchase liability insurance for the protection of employees of the Department of Veterans' Affairs to protect them from liability for acts, omissions, and claims arising in the course and scope of their employment or service to the department.

Section 4. KRS 36.340 is repealed and reenacted as a new section of KRS Chapter 40 to read as follows:

- (1) The Department of Veterans' Affairs shall establish and maintain state veterans' cemeteries in the Commonwealth for the purpose of providing for the interment of Kentucky veterans of the United States Armed Forces and for their next of kin, as determined by the department.
- (2) The Kentucky state veterans' cemeteries shall be under the administrative authority and control of the Department of Veterans' Affairs. The Department of Veterans' Affairs may promulgate administrative regulations necessary to operate the cemeteries in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs is authorized to seek federal and private funding for the construction, renovation, and operation of Kentucky state veterans' cemeteries.

Section 5. KRS 36.350 is repealed, reenacted as a new section of KRS Chapter 40 and amended to read as follows:

The General Assembly has determined the establishment of state veterans' nursing homes to be in the best interests of the veterans of the Commonwealth and necessary to the well-being of our elderly and disabled veterans. Therefore, it is the purpose of Section 6 of this Act ~~[KRS 36.355]~~ to authorize the establishment of state veterans' nursing homes, to promote their construction or renovation, and to assign administrative responsibility for their planning and operation.

Section 6. KRS 36.355 is repealed and reenacted as a new section of KRS Chapter 40 to read as follows:

- (1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide long-term care to veterans who are residents of Kentucky.
- (2) The Kentucky state veterans' nursing homes shall be attached to the Finance and Administration Cabinet. The Finance and Administration Cabinet may promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs may seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.

Section 7. KRS 36.360 is repealed and reenacted as a new section of KRS Chapter 40 to read as follows:

For the purpose of financing the costs of the construction or renovation of Kentucky state veterans' nursing homes and all proper costs necessary or incidental thereto, the Department of Veterans' Affairs is hereby authorized to apply to the State Property and Buildings Commission for the issuance of revenue bonds and to enter into any leases or other financing agreements in respect of the Kentucky state veterans' nursing homes necessary or desirable to provide revenues to amortize and secure the revenue bonds.

Section 8. KRS 36.370 is repealed, reenacted as a new section of KRS Chapter 40 and amended to read as follows:

- (1) Revenue bonds issued under the provisions of Section 7 of this Act~~[KRS 36.360]~~ and this section shall state that they are issued pursuant to Section 7 of this Act~~[KRS 36.360]~~ and this section and to the provisions of KRS Chapters 56 and 58, as applicable. Revenue bonds issued under the provisions of Section 7 of this Act~~[KRS 36.360]~~ and this section and the interest thereon shall be exempt from all taxation by the Commonwealth and its political subdivisions. Revenue bonds issued under the provisions of Section 7 of this Act~~[KRS 36.360]~~ and this section shall have and are hereby declared to have all the incidents of negotiable instruments.
- (2) The State Property and Buildings Commission, in each resolution authorizing the issuance of revenue bonds under the provisions of Section 7 of this Act~~[KRS 36.360]~~ and this section, shall determine the following:
 - (a) The maturity date or dates of the revenue bonds;
 - (b) The manner in which interest shall be paid thereon;
 - (c) The terms of redemption applicable thereto; and
 - (d) Such other particulars of the revenue bonds not contrary to law or inconsistent with Section 7 of this Act~~[KRS 36.360]~~ and this section.
- (3) Notwithstanding the provisions of KRS Chapters 56 and 58, revenue bonds issued under the provisions of Section 7 of this Act~~[KRS 36.360]~~ and this section may be sold by the State Property and Buildings Commission, and the interest rates to be borne by such bonds shall be determined, in such manner as the State Property and Buildings Commission shall decide, including, without limitation, sale by private negotiation.
- (4) No consent of any department, division, commission, board, bureau, or agency of the Commonwealth other than the proceedings, conditions and other things which are specifically required by Section 7 of this Act~~[KRS 36.360]~~ and this section and KRS Chapters 56 and 58, shall be required for the issuance of revenue bonds under the provisions of Section 7 of this Act~~[KRS 36.360]~~ and this section.

Section 9. The following KRS section is repealed:

194.225 Transfer of veterans' affairs functions to Center for Veterans' Affairs.

HB 140, AN ACT relating to the Department of Military Affairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

- (1) Office of Management and Administration, containing the:
 - (a) Division of Administrative Services;
 - (b) Division of Facilities;
 - (c) Bluegrass Station Division; and
 - (d) Division of Air Transport;
- (2) Division of Emergency Management~~[Disaster and Emergency Services]~~;
- (3) Office of the Chief of Staff for Federal Army Guard;
- (4) Office of the Chief of Staff for Federal Air Guard; and

(5) Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 2. KRS 17.167 is amended to read as follows: -

- (1) As used in this section, "felony offender" means any person who has been convicted of, entered an Alford plea to, or pleaded guilty to the commission of a capital offense or a felony.
- (2) Any paid or volunteer fire department certified by the Commission on Fire Protection Personnel Standards and Education, ambulance service licensed by the Commonwealth of Kentucky, or rescue squad officially affiliated with a local disaster and emergency services organization or with the Division of Emergency Management~~[Disaster and Emergency Services]~~ may apply to the Justice Cabinet or the Administrative Office of the Courts for a felony offender record check on applicants for employment or membership with the fire department, ambulance service, or rescue squad.
- (3) Each application form, provided by a fire department, ambulance service, or rescue squad to an applicant for employment or membership, shall conspicuously state the following: "FOR EMPLOYMENT WITH OR MEMBERSHIP WITH A FIRE DEPARTMENT, AMBULANCE SERVICE, OR RESCUE SQUAD, STATE LAW PERMITS A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT OR MEMBERSHIP."
- (4) Any request for records under this section shall be on a form approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet and the Administrative Office of the Courts shall not charge a fee for making record checks.

Section 3. KRS 36.255 is amended to read as follows:

- (1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Department of Military Affairs.
- (2) The membership of the board shall consist of the following:
 - (a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;
 - (b) The commissioner of the Department for Public Health, or the commissioner's designee;
 - (c) The commissioner of the Department of Education, or the commissioner's designee;
 - (d) The commissioner of the Kentucky State Police, or the commissioner's designee;
 - (e) The Kentucky state fire marshal, or the fire marshal's designee;
 - (f) The executive director of the Division of Emergency Management~~[Disaster and Emergency Services]~~, or the executive director's designee;
 - (g) The Attorney General, or the Attorney General's designee;
 - (h) One (1) representative of local community crisis response teams appointed by the Governor;
 - (i) Four (4) members appointed by the Governor to represent mental health disciplines;
 - (j) Two (2) members appointed by the Governor to represent emergency services disciplines;
 - (k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board;
 - (l) One (1) member, appointed by the Governor, from a state-wide chaplain's association involved in emergency services, who is trained in grief counseling and has experience in crisis response;
 - (m) One (1) member from the Kentucky Chapter of the American Red Cross; and
 - (n) The commissioner of the Department for Social Services or the commissioner's designee.
- (3) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall be approved members of the existing community crisis response team.
- (4) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall have demonstrated a commitment to the provision of community crisis response services.
- (5) The members of the board appointed by the Governor shall serve for two (2) years and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.
- (6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.
- (7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.

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- (8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 36.260, nothing in the provisions of KRS 36.250 to 36.270 shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

Section 4. KRS 75.470 is amended to read as follows:

Nothing in KRS 75.400 to 75.460 shall be construed to conflict with or supersede the authority of the Natural Resources and the Environmental Protection Cabinet, pursuant to the provisions of KRS Chapter 149, over management of forestry areas, and KRS Chapter 224, over management of hazardous wastes, nor the authority of the Division of Emergency Management~~[Disaster and Emergency Services]~~, pursuant to KRS Chapter 39, over response to disasters and emergencies.

Section 5. KRS 95A.020 is amended to read as follows:

- (1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.
- (2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.
- (3) The membership of the commission shall include:
 - (a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;
 - (b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;
 - (c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;
 - (d) Two (2) fire chiefs of paid fire departments;
 - (e) One (1) licensed physician;
 - (f) Two (2) fire chiefs of volunteer fire departments;
 - (g) One (1) teacher or administrator representing the fire and rescue training service of the Kentucky Community and Technical College System;
 - (h) One (1) representative of the Division of Emergency Management~~[Disaster and Emergency Services]~~ of the Department of Military Affairs;
 - (i) One (1) mayor of a Kentucky city;
 - (j) One (1) county judge/executive;
 - (k) One (1) representative of Kentucky industry or business enterprise; and
 - (l) One (1) representative of the general public.

The chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

- (4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions.
- (5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

HB 181, AN ACT relating to waiver of tuition fees for dependents of veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.505 is amended to read as follows:

- (1) ~~At Any~~ person shall not be required to pay any matriculation or tuition fees upon admission to any state supported university, junior college, or vocational training institution, if the person's deceased parent or stepparent, or if the person's deceased spouse, if the person has not remarried, whose parent or any nonremarried widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon joining the Kentucky National Guard or upon entering~~[entrance into]~~ military service and; ~~[who]~~

- (a) Was killed while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations, or was killed by hostile fire while on active duty in the Armed Forces of the United States or the Kentucky National Guard; or
- (b) ~~{who}~~ Died as a result of a service-connected disability acquired while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations ~~{shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, junior college, or vocational training institution}~~.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs or the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to ~~the{such}~~ institution, from whatever source, the amount of ~~the{such}~~ scholarship shall be applied to the credit of ~~the{such}~~ applicant in the payment of incidental expenses of ~~his~~ attendance at ~~the{such}~~ institution, and any balance, if the terms of the scholarship permit, shall be returned to ~~the{such}~~ applicant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, between the ages of seventeen (17) and twenty-three (23), of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state supported university, junior college, or vocational training institute for a period not in excess of the thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:
- (a) 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or
2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or
3. Died as a result of a service connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and
- (b) 1. Was a resident of the Commonwealth of Kentucky at the time of death; and
2. If discharged, was under honorable conditions.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 3. KRS 164.515 is amended to read as follows:

- (1) The spouse, regardless of age, and any child, stepchild, or orphan of a permanently and totally disabled member of the Kentucky National Guard injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition ~~fees{fee}~~ upon his admission to any state supported institution of higher education or to any state supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense or if deceased the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be

evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.

- (3) ~~In the absence of certification of permanent and total disability by the Kentucky Department of Workers' Claims, the United States Veterans Administration or the Department of Defense, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.~~
- (4) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.
- (4) ~~(5)~~ To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or ~~war~~ veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training with the National Guard or active duty with ~~during time of war or the Korean conflict or subsequent periods of federally recognized hostilities or have been disabled by hostile fire in~~ the Armed Forces of the United States, and his discharge ~~therefrom~~ must have been under honorable conditions. He must be a resident or if deceased, was a resident of the Commonwealth of Kentucky.
- (5) ~~(6)~~ No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged ~~therefrom~~ under honorable conditions; ~~the~~ such period of time spent in the military service to be compensated by like time, beyond the age of twenty-three (23) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.
- (6) ~~(7)~~ The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

HJR 5, A JOINT RESOLUTION expressing support for the construction of a National World War II Memorial in Washington, D.C. to honor United States and Kentucky citizens who served in the Armed Forces and those who died during World War II, making an appropriation therefor, and declaring an emergency.

WHEREAS, Public Law 103, enacted on May 2, 1993, by the 103rd Congress, authorized the construction of a memorial on federal land in the District of Columbia or its environs, in order to honor the sixteen million members of the Armed Forces who served in World War II and the four hundred six thousand who died, and to commemorate the United States' participation in that conflict; and

WHEREAS, 40 U.S.C. sec. 1003, created in the National Treasury a fund to be made available to the American Battle Monuments Commission for the expenses of establishing the memorial; and

WHEREAS, this law authorized the American Battle Monuments Commission and the World War II Memorial Advisory Board to promote the establishment of the memorial and to encourage donations for the memorial; and

WHEREAS, on November 11, 1995, the President dedicated a part of Constitution Gardens, at the east end of the gardens, between Constitution Avenue and the Rainbow Pool, as the site for the memorial; and

WHEREAS, Kentucky is proud of the three hundred twelve thousand Kentuckians who served in World War II and wishes to honor the six thousand two hundred and eleven Kentuckians who died in battle during that war; and

WHEREAS, twenty-five other states have introduced legislation seeking to donate one dollar to the National World War II Memorial for every resident who served in uniform during World War II from those states;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby appropriated from the General Fund Surplus Account for fiscal year ending 1999-2000, the sum of \$156,000 and for fiscal year ending 2000-2001, the sum of \$156,000, an amount equal to one dollar (\$1) for each resident of the Commonwealth of Kentucky who served in the Armed Forces of the United States during World War II. These funds shall be disbursed to the National World War II Memorial Fund, 2300 Clarendon Boulevard, Suite 501, Arlington, Virginia 22201. These funds are appropriated from the General Fund Surplus Account so as to not adversely impact any agency's existing budget.

Section 2. A copy of this Resolution shall be sent to Governor Paul E. Patton, Capitol Building, 700 Capitol Avenue, Frankfort, Kentucky 40601 and to the American Battle Monuments Commission, Post Office Box 96766, Washington, D.C. 20090-6766.

Section 3. Whereas the 1999-2000 fiscal year ends June 30, 2000, an emergency is declared to exist, and this act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

The Committee Substitute No. 1 to **HJR 5** is as follows:

HJR 5, A JOINT RESOLUTION expressing support for the construction of a National World War II Memorial in Washington, D.C. to honor United States and Kentucky citizens who served in the Armed Forces and those who died during World War II, making an appropriation therefor, and declaring an emergency.

WHEREAS, Public Law 103, enacted on May 2, 1993, by the 103rd Congress, authorized the construction of a memorial on federal land in the District of Columbia or its environs, in order to honor the sixteen million members of the Armed Forces who served in World War II and the four hundred six thousand who died, and to commemorate the United States' participation in that conflict; and

WHEREAS, 40 U.S.C. sec. 1003, created in the National Treasury a fund to be made available to the American Battle Monuments Commission for the expenses of establishing the memorial; and

WHEREAS, this law authorized the American Battle Monuments Commission and the World War II Memorial Advisory Board to promote the establishment of the memorial and to encourage donations for the memorial; and

WHEREAS, on November 11, 1995, the President dedicated a part of Constitution Gardens, at the east end of the gardens, between Constitution Avenue and the Rainbow Pool, as the site for the memorial; and

WHEREAS, Kentucky is proud of the three hundred twelve thousand Kentuckians who served in World War II and wishes to honor the six thousand two hundred and eleven Kentuckians who died in battle during that war; and

WHEREAS, twenty-five other states have introduced legislation seeking to donate one dollar to the National World War II Memorial for every resident who served in uniform during World War II from those states;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Recognizing the historical importance of the construction of the World War II Memorial in Washington, D.C., the General Assembly urges the members' support of the Governor's inclusion of the sum of \$312,000 for fiscal year 2000-2001, in the Executive Branch Budget Bill, an amount equal to one dollar (\$1) for each resident of the Commonwealth of Kentucky who served in the Armed Forces of the United States during World War II. These funds shall be disbursed to the National World War II Memorial Fund, 2300 Clarendon Boulevard, Suite 501, Arlington, Virginia 22201.

Section 2. A copy of this Resolution shall be sent to Governor Paul E. Patton, Capitol Building, 700 Capitol Avenue, Frankfort, Kentucky 40601 and to the American Battle Monuments Commission, Post Office Box 96766, Washington, D.C. 20090-6766.

The Committee on Health and Welfare reported **HB 81**, **HB 202**, with Committee Substitute attached thereto, **HB 237**, with Committee Substitute attached thereto, **HB 255**, **HB 274**, **HB 304**, with Committee Substitute attached thereto, and **HB 312** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 81, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.200 is amended to read as follows:

- (1) "Assisted living residence" means an apartment or home-style housing unit residence which provides assisted living to two (2) or more adult persons who are not related within the third degree of consanguinity to the owner or operator of the apartment or residence, and which provides supportive services within the residence or on the grounds of the residence. For purposes of this section:
 - (a) "Apartment" means a residence which shall offer at least one (1) unfurnished room, a private bathroom with a bathtub or shower, a kitchenette, a lockable door, and individual thermostat controls.
 - (b) "Home-style housing unit" means a residence which shall offer at least one (1) unfurnished room, a semiprivate bathroom with a bathtub or shower, free use of kitchen facilities, and a lockable door to the room entrance.
 - (c) "Supportive services" means assistance with household chores, cleaning, shopping, meals, laundry, transportation, twenty-four (24) hour supervision and organized social and recreational activities. Other services, including but not limited to assistance with health related services, may be arranged through a licensed or cabinet-approved service provider.
- (2) The Cabinet ***for Health Services*** shall, after consultation with the director of the Kentucky Housing Corporation to assure compliance with federal law, including but not limited to 12 U.S.C. sec. 1715b, 12 U.S.C. sec. 1715w, or 42 U.S.C. sec. 3535(d), as amended, or federal regulations promulgated under those statutes, establish by promulgation of administrative regulation pursuant to KRS Chapter 13A the requirements for certification of an assisted living residence. Certification of an assisted living residence shall be voluntary.
- (3) The Cabinet ***for Health Services*** may issue a certificate to any assisted living residence meeting standards provided for under subsection (2) of this section. The Cabinet ***for Health Services*** may deny, revoke, suspend, or modify an assisted

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living residence certificate for failure to comply with standards or when it determines the health, safety, or security of residents is in jeopardy. Actions to deny, revoke, suspend, or modify a certificate may be appealed to the Cabinet ***for Health Services*** within thirty (30) days of receipt of notification of intent. The Cabinet ***for Health Services*** shall, by administrative regulation in accordance with KRS Chapter 13A, establish procedures for the conduct of hearings upon appeals assuring reasonable notice and an opportunity to be heard pursuant to KRS Chapter 13B. Certification of an assisted living residence shall be voluntary.

- (4) No Medical Assistance or general fund moneys shall be used to pay for new classifications of services authorized by this section. Nothing in this section or KRS 216B.020 shall be construed to prohibit payment for services solely because the services may be performed in an assisted living facility if the services are otherwise eligible for Medical Assistance or general fund payment.

Section 2. The General Assembly hereby confirms Executive Order 98-791, dated June 24, 1998, to the extent it is not otherwise confirmed by this Act. The confirmation shall include: (1) requiring a separate budget identification number be assigned to the Office of the Inspector General of the Cabinet for Health Services; and (2) transferring the voluntary assisted living certification program for assisted living facilities which is administered by the Kentucky Housing Authority under state and federal law from the Cabinet for Families and Children to the Cabinet for Health Services, Office of the Inspector General.

HB 202, AN ACT relating to inherited metabolic disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:
- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
 - (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
 - (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. ***For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases, including, but not limited to, phenylketonuria (PKU), if the amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician;***
 - (d) Physician, podiatric, and dental services;
 - (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
 - (h) Services provided by health-care delivery networks as defined in KRS 216.900; and
 - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one

- (1) of the functions of the council to make recommendations to the Cabinet for Health Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.
- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health Services may make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 2. KRS 213.141 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars (\$5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.
- (2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ~~ten~~^{nine} dollars ~~(\$10)~~^(\$9) to be paid for a certified copy of a record of a birth, three dollars (\$3) of which shall be used by the Cabinet for Health Services or the Cabinet for Families and Children for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children, and one dollar (\$1) of which shall be used by the Division of Maternal and Child Health to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases, including, but not limited to, phenylketonuria (PKU), if:
 - (a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician; and
 - (b) The affected person is not covered under any public or private health benefit plan.
- (3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.
- (4) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.
- (5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 3. KRS 214.155 is amended to read as follows:

- (1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health Services. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for Health Services or his designee. The secretary of the Cabinet for Health Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.
- (2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.
- (3) The cabinet shall make available the names and addresses of health care providers, including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for an inborn error of metabolism, including, but not limited to, PKU.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) A health benefit plan that provides coverage for a family or dependent shall provide coverage of a newly born child of the insured from the moment of birth.

- (2) Coverage for a newly born child shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities, including molecular defects causing inherited metabolic diseases.
- (3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond that thirty-one (31) day period.
- (4) (a) For purposes of this subsection:
1. "Amino acid modified preparation" means a product intended for the dietary treatment of an inherited metabolic disease under the direction of a physician; and
 2. "Low-protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease under the direction of a physician.
- (b) A health benefit plan that provides prescription drug coverage shall provide that coverage for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases if the amino acid products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician. Coverage under this subsection shall be subject, for each plan year, to a cap of four thousand dollars (\$4,000) on individual dietary prescription expenditures, subject to annual inflation adjustments.
- (5) The requirements of this section shall apply to all health benefit plans delivered on and after the effective date of this Act.

The Committee Substitute No. 1 to **HB 202** is as follows:

HB 202, AN ACT relating to inherited metabolic disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:
- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
 - (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
 - (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases, including, but not limited to, phenylketonuria (PKU), if the amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician;
 - (d) Physician, podiatric, and dental services;
 - (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by

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licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

- (h) Services provided by health-care delivery networks as defined in KRS 216.900; and
 - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.
- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her

physical death.

- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health Services may make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 2. KRS 213.141 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars (\$5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.
- (2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ~~ten~~^{nine} dollars ~~(\$10)~~^(\$9) to be paid for a certified copy of a record of a birth, three dollars (\$3) of which shall be used by the Cabinet for Health Services or the Cabinet for Families and Children for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children, and one dollar (\$1) of which shall be used by the Division of Maternal and Child Health to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases, including, but not limited to, phenylketonuria (PKU), if:
 - (a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician; and
 - (b) The affected person's amino acid modified formula and foods are not covered under any public or private health benefit plan.
- (3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.
- (4) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.
- (5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 3. KRS 214.155 is amended to read as follows:

- (1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health Services. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for Health Services or his designee. The secretary of the Cabinet for Health Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.
- (2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally

recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

- (3) The cabinet shall make available the names and addresses of health care providers, including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for an inborn error of metabolism, including, but not limited to, PKU.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) A health benefit plan that provides coverage for a family or dependent shall provide coverage of a newly born child of the insured from the moment of birth.
- (2) Coverage for a newly born child shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities, including molecular defects causing inherited metabolic diseases.
- (3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond that thirty-one (31) day period.
- (4) (a) For purposes of this subsection:
1. "Amino acid modified preparation" means a product intended for the dietary treatment of an inherited metabolic disease under the direction of a physician; and
 2. "Low-protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease under the direction of a physician.
- (b) A health benefit plan that provides prescription drug coverage shall provide that coverage for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases if the amino acid products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician. Coverage under this subsection shall be subject, for each plan year, to a cap of four thousand dollars (\$4,000) on individual medical food prescription expenditures, subject to annual inflation adjustments, but there shall be no cap on medical formulas.
- (5) The requirements of this section shall apply to all health benefit plans delivered on and after the effective date of this Act.

HB 237, AN ACT relating to children's advocacy centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.600 is amended to read as follows:

- (1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Families and Children. Cabinet for Families and Children social workers shall be available to assist in all investigations under this section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.
- (2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.
- (3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.
- (4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.
- (5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons

involved with the child victim.

- (6) Commonwealth's attorneys and county attorneys and the Cabinet for Families and Children and other team members shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.
- (7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.
- (8) **To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with a child shall be conducted at a children's advocacy center.**

Section 2. KRS 431.650 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be comprised of the following members:
 - (a) The commissioner of the Department for Social Services or a designee;
 - (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
 - (c) One (1) family service worker who is employed by the Department for Social Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Families and Children;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for ~~Families and Children~~ **Health Services**;
 - (e) The commissioner of the Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;
 - (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education; ~~and~~
 - (l) **The executive director of the Governor's Office of Child Abuse and Domestic Violence Services or a designee;**
 - (m) **One (1) representative of a children's advocacy center who shall be appointed by the Governor;**
 - (n) **One (1) physician appointed by the Governor; and**
 - (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
- (4) The commission shall elect a chairperson annually from its membership.

Section 3. KRS 431.660 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse shall:
 - (a) Prepare and issue a model protocol for local multidisciplinary teams regarding investigation and prosecution of child sexual abuse **and the role of children's advocacy centers on multidisciplinary teams.**
 - (b) Review and approve protocols prepared by local multidisciplinary teams.
 - (c) Advise local multidisciplinary teams on the investigation and prosecution of child sexual abuse.
 - (d) Receive data on child sexual abuse cases collected by the Prosecutors Advisory Council and issue annual reports.
 - (e) Collect data on the operation of local multidisciplinary teams.
 - (f) Seek funding to support special projects relating to the operation of local multidisciplinary teams.
 - (g) Receive and review complaints regarding local multidisciplinary teams, and make appropriate recommendations.
 - (h) Recommend to the Governor, Legislative Research Commission, and Supreme Court changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate effective intervention of child sexual abuse cases and the investigation and prosecution of perpetrators of child sexual abuse, and which may improve the opportunity for victims of child sexual abuse to receive treatment.

- (2) The Kentucky Multidisciplinary Commission on Child Sexual Abuse may, within budget limitations, establish and maintain necessary offices, appoint employees, and prescribe the duties and compensation for the appointed employees.

Section 4. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

- (1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the biological family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;
- (2) "Case progress report" means a written record of goals that have been achieved in the case of a child;
- (3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;
- (4) **"Children's advocacy center" means an agency that advocates on behalf of children alleged to have been abused; that assists in the coordination of the investigation of child abuse by providing a location for forensic interviews and promoting the coordination of services for children alleged to have been abused; and that provides services that include, but are not limited to, forensic medical examinations, mental health and related support services, court advocacy, consultation, training, and staffing of multidisciplinary teams;**
- (5) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:
 - (a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and
 - (b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;
- ~~(6)(5)~~ "Local citizen foster care review board" means a citizen board which provides periodic permanency reviews of children placed in the custody of the cabinet by a court order of temporary custody or commitment under this chapter;
- ~~(7)(6)~~ "Multidisciplinary teams" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;
- ~~(8)(7)~~ "Permanence" means a relationship between a child and an adult which is intended to last a lifetime, providing commitment and continuity in the child's relationships and a sense of belonging;
- ~~(9)(8)~~ "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;
- ~~(10)(9)~~ "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;
- ~~(11)(10)~~ "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and
- ~~(12)(11)~~ "State citizen foster care review board" means a board created by KRS 620.310.

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) **The secretaries of the Cabinet for Families and Children, the Cabinet for Health Services, and the Justice Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.**
- (2) **To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for Families and Children in accordance with KRS Chapter 13A.**

Section 6. KRS 620.040 is amended to read as follows:

- (1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-

eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.

- (3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (4)
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
 - (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
 - (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
 - (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- (5) **To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.**
- (6)**
 - (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
 - (b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, **children's advocacy center staff**, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
 - (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
 - (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
 - (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
 - (f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
 - (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
 - (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
 - (i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.**

Section 7. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600. Members may include staff from a children's advocacy center; or
 - (g) Those persons so authorized by court order.
- (5) The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case.
- (6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

The Committee Substitute No. 1 to **HB 237** is as follows:

HB 237, AN ACT relating to children's advocacy centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.600 is amended to read as follows:

- (1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Families and Children. Cabinet for Families and Children social workers shall be available to assist in all investigations under this

section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.

- (2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.
- (3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.
- (4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.
- (5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.
- (6) Commonwealth's attorneys and county attorneys and the Cabinet for Families and Children and other team members shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.
- (7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.
- (8) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with a child shall be conducted at a children's advocacy center.

Section 2. KRS 431.650 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be comprised of the following members:
 - (a) The commissioner of the Department for Social Services or a designee;
 - (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
 - (c) One (1) family service worker who is employed by the Department for Social Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Families and Children;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health Services~~[Families and Children]~~;
 - (e) The commissioner of the Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;
 - (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;~~[and]~~
 - (l) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services or a designee;
 - (m) One (1) representative of a children's advocacy center who shall be appointed by the Governor;
 - (n) One (1) physician appointed by the Governor; and
 - (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without

reappointment.

- (4) The commission shall elect a chairperson annually from its membership.

Section 3. KRS 431.660 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse shall:
- (a) Prepare and issue a model protocol for local multidisciplinary teams regarding investigation and prosecution of child sexual abuse and the role of children's advocacy centers on multidisciplinary teams.
 - (b) Review and approve protocols prepared by local multidisciplinary teams.
 - (c) Advise local multidisciplinary teams on the investigation and prosecution of child sexual abuse.
 - (d) Receive data on child sexual abuse cases collected by the Prosecutors Advisory Council and issue annual reports.
 - (e) Collect data on the operation of local multidisciplinary teams.
 - (f) Seek funding to support special projects relating to the operation of local multidisciplinary teams.
 - (g) Receive and review complaints regarding local multidisciplinary teams, and make appropriate recommendations.
 - (h) Recommend to the Governor, Legislative Research Commission, and Supreme Court changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate effective intervention of child sexual abuse cases and the investigation and prosecution of perpetrators of child sexual abuse, and which may improve the opportunity for victims of child sexual abuse to receive treatment.
- (2) The Kentucky Multidisciplinary Commission on Child Sexual Abuse may, within budget limitations, establish and maintain necessary offices, appoint employees, and prescribe the duties and compensation for the appointed employees.

Section 4. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

- (1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the biological family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;
- (2) "Case progress report" means a written record of goals that have been achieved in the case of a child;
- (3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;
- (4) "Children's advocacy center" means an agency that advocates on behalf of children alleged to have been abused; that assists in the coordination of the investigation of child abuse by providing a location for forensic interviews and promoting the coordination of services for children alleged to have been abused; and that provides services that include, but are not limited to, forensic medical examinations, mental health and related support services, court advocacy, consultation, training, and staffing of multidisciplinary teams;
- (5) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:
 - (a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and
 - (b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;
- ~~(6)(5)~~ "Local citizen foster care review board" means a citizen board which provides periodic permanency reviews of children placed in the custody of the cabinet by a court order of temporary custody or commitment under this chapter;
- ~~(7)(6)~~ "Multidisciplinary teams" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;
- ~~(8)(7)~~ "Permanence" means a relationship between a child and an adult which is intended to last a lifetime, providing commitment and continuity in the child's relationships and a sense of belonging;
- ~~(9)(8)~~ "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;
- ~~(10)(9)~~ "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;
- ~~(11)(10)~~ "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and
- ~~(12)(11)~~ "State citizen foster care review board" means a board created by KRS 620.310.

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *The secretaries of the Cabinet for Families and Children, the Cabinet for Health Services, and the Justice Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.*
- (2) *To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for Families and Children in accordance with KRS Chapter 13A.*

Section 6. KRS 620.040 is amended to read as follows:

- (1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports.
- (3) If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.

~~(4)(3)~~ School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

- ~~(5)(4)~~(a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

~~(6)(5)~~*To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.*

- (7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not

responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

Section 7. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600. **Members may include staff from a children's advocacy center;** or
 - (g) Those persons so authorized by court order.
- (5) The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case.
- (6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be

disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

- (8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

HB 255, AN ACT relating to anatomical gifts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) If an anatomical gift is made in Kentucky for organ transplantation for which the donor does not name a specific donee, and if the organ is deemed suitable for transplantation, the organ shall be donated to the organ procurement organization designated by the Federal Health Care Financing Administration as the organ procurement organization for the county in which the gift is made. The organ procurement organization shall use its best efforts to determine if there is a suitable recipient listed at a transplant center in a county for which it is the designated organ procurement organization.
- (2) Any organ procurement organization operating in Kentucky may enter into a reciprocal agreement for the sharing of organs with one (1) or more qualified organ procurement organizations located in other states, if the organ procurement organization considers the agreement advisable, necessary, or expedient, and consistent with the best interests of Kentucky citizens who are awaiting transplantation. Before the organ procurement organization enters into a reciprocal agreement, it shall obtain approval of the proposed agreement from the United Network for Organ Sharing, or its successor, acting as the Organ Procurement and Transplantation Network as designated by the United States Department of Health and Human Services.
- (3) To avoid the wasting of donated organs, to avoid futile transplants, to promote patient access to transplantation, and to promote the efficient management of organ placement, except as otherwise provided by any agreement entered into under subsection (2) of this section, an organ procurement organization in Kentucky shall not be mandated to transfer an organ for transplantation to an out-of-state organ procurement organization or to a transplant recipient at a transplant center outside its designated service area if a suitable recipient can be identified at a transplant center within its service area.

HB 274, AN ACT relating to advanced registered nurse practice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" shall mean Kentucky Board of Nursing.
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.
- (3) "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.
- (5) "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.
- (6) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm.

- (b) The maintenance of health or prevention of illness of others.
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 - 1. Preparing and giving medications in the prescribed dosage, route, and frequency;
 - 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 - 3. Intervening when emergency care is required as a result of drug therapy;
 - 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 - 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 - 6. Instructing an individual regarding medications.
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.
- (7) "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including, but not limited to, the nurse anesthetist, nurse midwife, and nurse practitioner pursuant to KRS 314.042.
- (8) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.
- (9) "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.
- (10) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
- (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
 - (d) Teaching, supervising, and delegating except as limited by the board.
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
- (11) "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.
- (12) "Continuing education" shall mean offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.
- (13) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.
- (14) "Sexual assault nurse examiner" shall mean a registered nurse who has completed the required education and clinical

experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(2).

Section 2. KRS 314.042 is amended to read as follows:

- (1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or any other designation as determined by the board.
- (3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.
- (6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."
- (8) Before an advanced registered nurse practitioner engages in the prescribing *or dispensing* of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.
- (9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 3. KRS 315.040 is amended to read as follows:

- (1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.
- (2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent the physician from keeping any drug or medicine that he or she may need in his or her practice, from compounding the physician's own medications, or from dispensing or supplying to patients any article that seems proper to the physician.
- (3) Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in KRS 216.925.
- (4) Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.
- (5) Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.
- (6) Nothing in this chapter shall interfere with the activities of an advanced registered nurse practitioner as authorized in KRS Chapter 314.

HB 304, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) Any person whose home is approved as a family foster home by the Cabinet for Families and Children for six (6) months or more prior to purchasing coverage under this section, shall be permitted to purchase health insurance coverage provided to state employees pursuant to KRS 18A.225, under the same terms and conditions as state employees. A person electing coverage under this section shall be eligible for coverage until his or her home is no longer approved as a family foster home.
- (2) The secretary of the Finance and Administration Cabinet and the secretary of the Cabinet for Families and Children shall provide for a system to enroll persons who elect to purchase health insurance pursuant to this section using the county offices of the Cabinet for Families and Children. Persons who elect to purchase the coverage shall do so in the office of the cabinet in the county of their residence. The person who elects coverage under this section shall be responsible for payment of the total cost of the coverage and shall pay the premiums in a manner and at a time as determined by administrative regulations of the Finance and Administration Cabinet promulgated pursuant to KRS Chapter 13A.

The Committee Substitute No. 1 to **HB 304** is as follows:

HB 304, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) Any person whose home is approved as a family foster home by the Cabinet for Families and Children or by a licensed child-placing agency for six (6) months or more prior to purchasing coverage under this section, shall be permitted to purchase health insurance coverage provided to state employees pursuant to KRS 18A.225, under the same terms and conditions as state employees.
 - (a) A person electing coverage under this section shall remain eligible for coverage until his or her home is no longer an active foster home; and
 - (b) When a foster home becomes inactive or closed during a policy period, a person shall retain current coverage until the end of the policy period.
- (2) The secretary of the Finance and Administration Cabinet and the secretary of the Cabinet for Families and Children shall provide for a system to enroll persons who elect to purchase health insurance pursuant to this section using the county offices of the Cabinet for Families and Children. Persons who elect to purchase the coverage shall do so in the office of the cabinet in the county of their residence. The person who elects coverage under this section shall be responsible for payment of the total cost of the coverage and shall pay the premiums in a manner and at a time as determined by administrative regulations of the Finance and Administration Cabinet promulgated pursuant to KRS Chapter 13A.

HB 312, AN ACT relating to emergency medical technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.964 is amended to read as follows:

- (1) The Cabinet for Health Services shall promulgate administrative regulations relating to emergency medical technicians. The regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.
- (2) Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet. The continuing education program shall be subject to the requirements of KRS 214.610(1).
- (3) On or after the effective date of this Act, a new emergency medical technician shall, for initial certification, be certified using the requirements and testing established by the National Registry of Emergency Medical Technicians.
- (4) On or after the effective date of this Act, a certified emergency medical technician who seeks recertification shall recertify under the requirements established and maintained by the cabinet. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year recertification period. The cabinet shall also recertify any emergency medical technician who chooses to recertify under the requirements established by the National Registry of Emergency Medical Technicians in lieu of the standards established by the cabinet.~~In lieu of the continuing education and in-service training requirement specified by the cabinet~~

for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.

- (4) ~~Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.~~
- (5) ~~A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.~~
- (5)(6) Other than the requirements of KRS 214.610(1), the cabinet shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.
- (6)(7) Other than the requirements of KRS 214.610(1), any person certified by the State Board of Medical Licensure as a paramedic shall be certified as an emergency medical technician by the cabinet. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that paramedic certification is issued or expires, and if a paramedic voluntarily gives up his certification prior to the expiration of his paramedic certification, his emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to recertify as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic certification, recertify as an emergency medical technician utilizing one (1) of the methods provided for in this section.
- (7)(8) A paramedic whose certification as a paramedic is suspended, revoked, or denied by the State Board of Medical Licensure shall have the same action taken automatically by the cabinet with regard to his emergency medical technician certification.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Representative Colter moved that rules be suspended to act upon the following **Legislative Citation No. 14**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Tim Couch and congratulates this highly talented native son, whose athletic prowess and success has been such a source of pride for his community and all who dwell in this great Commonwealth, that today, legislation has been introduced to rename Highway 118, formerly known as Hyden Spur, to Tim Couch Pass. The members of this distinguished body are delighted to join Representative Barbara White Colter in welcoming Tim Couch to the Chambers of the Kentucky House of Representatives and in expressing highest regards and best wishes as this young citizen of remarkable skill and character continues to serve the youth of Kentucky as an example of the rewards of hard work, discipline and good citizenship. Done in Frankfort, this eighteenth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 14 was adopted without objection.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 250, HB 3, HB 9, HB 52, HB 70, HB 71, HB 86, HB 87, HB 107, HB 109, HB 122, HB 129, HB 147, HB 164, and HB 229** have been posted for passage in the Orders of the Day for January 19, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 85 and HB 175**

Orders of the Day

HB 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 82** be passed.

On the roll call the vote was: **Yeas 92, Nays 1.** (See January 18 , 2000 roll call on **HB 82** - Appendix.)

HB 82 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 82** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 84 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 84** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 18 , 2000 roll call on **HB 84** - Appendix.)

HB 84 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 84** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 90 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 90** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 18 , 2000 roll call on **HB 90** - Appendix.)

HB 90 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 90** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 265 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 265** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 18 , 2000 roll call on **HB 265** - Appendix.)

HB 265 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 265** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 40 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 40** be passed.

On the roll call the vote was: **Yeas 90, Nays 0.** (See January 18 , 2000 roll call on **HB 40** - Appendix.)

HB 40 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 40** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of

members elected.

Representative Crimm moved the adoption of Committee Amendment No. 1 to **HB 43**. Agreed.

Representative Crimm moved that **HB 43**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 18, 2000 roll call on **HB 43** - Appendix.)

HB 43, as amended, was passed.

Representative Crimm moved the adoption of Committee Amendment No. 2 Title to **HB 43**. Agreed; and the Title was agreed to.

Representative Crimm moved that the vote by which **HB 43**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 72** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 18, 2000 roll call on **HB 72** - Appendix.)

HB 72 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 103 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 103** be passed.

On the roll call the vote was: **Yeas 90, Nays 3**. (See January 18, 2000 roll call on **HB 103** - Appendix.)

HB 103 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 103** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 106 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 106** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 18, 2000 roll call on **HB 106** - Appendix.)

HB 106 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 106** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 219, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of the Committee Substitute to **HB 219**. Agreed.

Representative D. Butler moved that **HB 219**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See January 18, 2000 roll call on **HB 219** - Appendix.)

HB 219, by way of Committee Substitute, was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 219**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 232 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved that **HB 232** be passed.

On the roll call the vote was: **Yeas 94, Nays 1.** (See January 18, 2000 roll call on **HB 232** - Appendix.)

HB 232 was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 232** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 266 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 266** be passed.

On the roll call the vote was: **Yeas 92, Nays 2.** (See January 18, 2000 roll call on **HB 266** - Appendix.)

HB 266 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 266** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 327, HB 358, and HCR 45.**

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 218**

Local Government: **HB 331**

The following Bill has been withdrawn from consideration:

Labor and Industry: **HB 104**

Introductions of Bills and Resolutions (Continued)

HB 377, by Representatives Bruce and Crall: AN ACT relating to branching and acquisition of banks in Kentucky.

HB 378, by Representatives Fischer, Heleringer, Crall, Kerr, Walton, Marcotte, Anderson, Treesh, P. Clark, Simpson, Vincent, Stewart, Cave, Feeley, Baugh, Haydon, R. Adams, Weaver, Tapp, Upchurch, Ausmus, Reinhardt, Riner, Ford, and Napier: AN ACT relating to wrongful death actions.

HB 379, by Representatives Kerr, D. D. Butler, Treesh, Napier, Reinhardt, Riner, Marcotte, Bruce, Childers, Gooch, Bratcher, Crimm, Simpson, P. Clark, R. Adams, Haydon, Weaver, Upchurch, Tapp, Draud, Stewart, Ausmus, Rader, Heleringer, Baugh, Cox, Vincent, Fischer, Walton, Ford, Feeley, and Crall: AN ACT relating to crimes and punishments.

HB 380, by Representatives Marzian, Johns, Jordan, Jenkins, Palumbo, C. Belcher, Westrom, Colter, Sims, Stein, Webb, and Rader: AN ACT relating to boards and commissions.

HB 381, by Representatives Palumbo and Bowling: AN ACT relating to economic development.

HB 382, by Representative Stacy: AN ACT relating to school fundraising activities.

HB 383, by Representative Stacy: AN ACT relating to state boards.

HB 384, by Representative Buckingham: AN ACT relating to credit cards.

HB 385, by Representatives Thomas and Wilkey: AN ACT relating to the tobacco Master Settlement Agreement and declaring an emergency.

HB 386, by Representative Thomas: AN ACT relating to farm milk.

HB 387, by Representative Westrom: AN ACT relating to powers of attorney.

HB 388, by Representatives Treesh, Gooch, Crall, Simpson, D. D. Butler, L. Belcher, Baugh, J. Arnold, Allen, Scott, Thomas, Sims, and J. Adams: AN ACT relating to property tax.

HB 389, by Representative A. Arnold: AN ACT relating to retirement.

HB 390, by Representatives Johns, L. Clark, Callahan, Barrows, Stumbo, Lee, Marzian, Burch, J. Adams, Crimm, Bratcher, Nunn, Westrom, Richards, L. Belcher, D. D. Butler, Palumbo, Simpson, P. Clark, Horlander, Jenkins, Hoffman, Miller, Gooch, McKee, Ballard, Palmer, D. Butler, Weaver, Coleman, Buckingham, C. Belcher, J. Arnold, Geveden, Cherry, Stein, A. Arnold, Sims, Thomas, Wilkey, Vincent, Riggs, Kerr, Riner, Yonts, Stacy, Webb, Bowling, Polston, Alexander, Childers, Gray, Graham, Scott, Colter, Bruce, Branham, Rader, Crenshaw, Stewart, J. Turner, R. Adams, Thompson, Moberly, Haydon, Damron, Adkins, Heleringer, Nesler, and Siler: AN ACT relating to health insurance.

HB 391, by Representatives Gray, Buckingham, and Nesler: AN ACT relating to noncoal mining.

HR 49, by Representatives Heleringer and Kerr: A RESOLUTION memorializing the twenty-seventh anniversary of the United States Supreme Court decision of Roe versus Wade, which legalized abortion.

HR 50, by Representatives Marzian, Jenkins, Jordan, Johns, Colter, Stein, Westrom, Feeley, C. Belcher, Webb, Rader, Sims, and Palumbo: A RESOLUTION adjourning the House of Representatives in honor of Tori Murden.

HR 51, by Representatives Marzian, Jordan, Jenkins, and Stein: A RESOLUTION adjourning the House of Representatives in honor of the greatest athlete of all time, Kentucky native Muhammad Ali.

Motions, Petitions, and Communications (Continued)

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that his vote be changed from "nay" to "yea" on **HB 165**. Agreed.

Representative Ratliff moved the adoption of the following **Legislative Citation No. 13**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Ms. Rachel Leigh Dillon. The House of Representatives joins Representative Chris Ratliff in expressing its heartfelt sympathy to all who share in the loss through the tragic and untimely passing of this young Kentucky woman. The spirited and much-loved young daughter of Clarissa Friend and Ronnie Dillon, she is remembered this day with abiding gratitude for her remarkable presence, with deep sorrow for the brevity of her days and with sincere condolences to her family and friends. Done in Frankfort, this eighteenth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 13 was adopted without objection.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 69**, by Representative Collins:

On page 2, line 27, by deleting the phrase "within the same"; and

On page 3, line 1, by deleting the word "municipality"; and

On page 3, line 5, by deleting the phrase "within the same municipality"; and

On page 3, line 5, by placing an opening bracket "[" before the word "to" and striking through the word "to"; and

On page 3, line 6, by striking through the phrase "another municipality" and by placing a closing bracket "]" after the word "municipality"; and

On page 3, line 6, after the word "new" by inserting the word "application" and by placing an opening bracket "[" and a closing bracket "]" around the word "license" and striking through the word "license".

Floor Amendment No. 1 to **HB 70**, by Representative Kerr:

On page 1, by deleting lines 15, 16, and 17 in their entirety and inserting in lieu thereof:

"(3) "Place of public accommodation, resort, or amusement" does not include a religious organization and its activities and facilities if the application of KRS 344.120 would not be consistent with the religious tenets of that religious organization."

Floor Amendment No. 1 to the Committee Substitute to **HB 261**, by Representative Damron:

On page 6, after line 23, by inserting the following:

"Section 4. Whereas this Act affects the school facilities construction planning process and local school districts need as much time as possible to undertake judicious planning, and the fiscal year begins on July 1, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Floor Amendment No. 2 Title to **HB 261**, by Representative Damron:

by amending the title to read as follows:

"AN ACT relating to school facilities construction and declaring an emergency."

Floor Amendment No. 7 to **HB 170**, by Representative Heleringer:

On page 10, line 9, after "confession", by inserting the following new language:

", or to cause one to be a member of the House Committee on Health and Welfare".

Floor Amendment No. 8 to **HB 170**, by Representative Riner:

On page 21, after line 6, by inserting the following new section:

"Section 7. KRS 620.040 is amended to read as follows:

- (1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.
- (3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (4)
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
 - (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- (5) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
- (6) Any person found to have abused or neglected a child under this section shall have the right to appeal that finding, and if upon appeal the finding is changed to "unfounded" or "unsubstantiated", the name of the person shall be totally expunged from the child abuse and adult central registry maintained by the cabinet. The right to appeal shall extend to a positive determination made by the cabinet or any predecessor that may have had jurisdiction over the registry since its inception, and shall include any positive determination made before or after the effective date of this Act."

Floor Amendment No. 9 to **HB 170**, by Representative Hoover:

On page 2, lines 20 and 21, after "physical injury" by deleting all remaining text except ";";

On page 10, lines 8, 9, and 10, by deleting the following: ""Torture" means to inflict intense pain to the body or the mind for purposes of punishment or sadistic pleasure, or to extract information or a confession;

(56)";

On page 10, line 12, by deleting "(57)" and inserting "(56)" in lieu thereof;

On page 10, line 16, by deleting "(58)" and inserting "(57)" in lieu thereof.

Floor Amendment No. 10 to **HB 170**, by Representative Riner:

On page 21, after line 6, by inserting the following new section:

"Section 7. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith

shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

- (2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600; or
 - (g) Those persons so authorized by court order.
- (5) The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case.
- (6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.
- (9) Notwithstanding any provision of this section to the contrary, any family member interrogated or investigated for abuse or neglect by the cabinet shall be advised by the person performing the interrogation or investigation of the right to file a grievance with the cabinet if the family member believes that his or her civil rights have been violated or that the administrative appeals process has been unsatisfactory. The family member shall have the opportunity to waive confidentiality requirements of this section and file the grievance with the cabinet. The grievance shall state with particularity the complete grounds for the belief that the civil rights have been violated or that the administrative appeals process has been unsatisfactory, and shall contain the family member's name, address, and telephone number. A copy of the grievance shall be made available upon request by the media or by any member of the General Assembly."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 8:	Representative J. Arnold
HB 28:	Representative Tapp
HB 49:	Representative Weaver
HB 57:	Representative R. Adams
HB 65:	Representative Sims
HB 69:	Representative Weaver
HB 76:	Representatives Riggs, Sims
HB 100:	Representative Rader
HB 111:	Representative Colter
HB 118:	Representative Bowling
HB 123:	Representatives J. Adams, Alexander, Burch, Fischer, Haydon, Jordan, Rader, Ratliff, Riner, Stein, Thomas, Wilkey
HB 148:	Representative L. Clark
HB 180:	Representatives Kerr, Napier
HB 202:	Representative Palumbo
HB 203:	Representative Reinhardt
HB 236:	Representatives A. Arnold, McKee, Riggs, Thomas
HB 250:	Representative Feeley
HB 255:	Representatives L. Belcher, Branham, Buckingham, Colter, Crimm, Marcotte, McKee, Nunn
HB 258:	Representatives Jenkins, McKee
HB 267:	Representative Buckingham
HB 278:	Representative Bratcher
HB 295:	Representatives Baugh, Riggs, Sims, Stewart
HB 304:	Representatives Johns, Palumbo
HB 319:	Representatives Colter, Scott
HB 347:	Representatives Callahan, Heleringer, Palumbo, Ratliff, Riner, Weaver, Westrom, Vincent, Yonts
HB 377:	Representatives J. Adams, Damron

Announcements:

The following meetings were announced:

Elections, Constitutional Amendments, and Intergovernmental Affairs: January 19, 2000, 10:00 a.m., Room 131

Labor and Industry: January 19, 2000, 8:30 a.m., Room 125

The following meeting was canceled:

Transportation, January 19, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 19, 2000.

On the roll call the vote was **Yeas 75**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Childers, L. Clark, P. Clark, Collins, Colter, Cornett, Crimm, Damron, DeWeese, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, McKee, Miller, Moberly, Nesler, Palmer, Palumbo, Polston, Rader, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Thomas, Thompson, Treesh, T. Turner, Upchurch, Vincent, Wayne, Weaver, Webb, Westrom, Wilkey, Yonts. **Nays 8**--Cherry, Crall, Hoover, Nunn, Riggs, Stewart, Tapp, Walton.

The motion to adjourn was adopted.

JANUARY 19, 2000
ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Charles Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of January 18, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 25** and **SJR 2**. (Time: 2:05 p.m.)

Introduction of Bills and Resolutions

HB 392, by Representatives Wayne, L. Clark, and Colter: AN ACT relating to the Kentucky lottery.

HB 393, by Representative Crimm: AN ACT relating to the certification of interior designers.

HB 394, by Representative Crimm: AN ACT relating to watercraft used as a residence.

HB 395, by Representative Crimm: AN ACT relating to property taxes.

HB 396, by Representative Crimm: AN ACT relating to insurance premium finance companies.

HB 397, by Representatives Bruce and J. Adams: AN ACT relating to auxiliary county police officers.

HB 398, by Representative Nunn: AN ACT relating to boats.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 385, HB 386**

Appropriations and Revenue: **HB 388**

Banking and Insurance: **HB 375, HB 377, HB 384, HB 390**

Economic Development: **HB 381**

Education: **HB 382**

Judiciary: **HB 378, HB 379, HB 387, HR 49**

Natural Resources and Environment: **HB 376, HB 391**

State Government: **HB 380, HB 383, HB 389, HCR 47**

Transportation: **HJR 48**

House Floor: **HR 50, HR 51**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 342**

Agricultural and Small Business: **HB 203**

Report of Committees

The Committee on Education reported **HB 46**, **HB 77**, with Committee Substitute attached thereto, **HB 142**, **HB 149**, and **HJR 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 46, AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.080 is amended to read as follows:

- (1) The corporation may provide for the issuance, at one (1) time or from time to time, of not exceeding nine hundred fifty million dollars (\$950,000,000)~~five hundred fifty three million dollars (\$553,000,000)~~ in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on bonds or notes shall be payable solely from the funds provided for payment. Any notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at the price or prices and under the terms and conditions determined by the corporation. Any bonds or notes shall bear interest at a rate or rates determined by the corporation. Notes shall mature at a time or times not exceeding five (5) years from their date or dates and bonds shall mature at a time or times not exceeding thirty (30) years from their date or dates, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. If any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them shall cease to be an officer before the delivery of the bonds or notes, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until the delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter if the sale is approved by the corporation.
- (2) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in a manner and under restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the bonds or notes. The principal of and interest on any bonds issued by the corporation shall be payable only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of the bonds.
- (3)
 - (a) Prior to the issuance of any bonds or notes that are not secured by the repayment of student loans at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the United States of America, the corporation shall obtain approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1). This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note.
 - (b) Notwithstanding paragraph (a) of this subsection, if during the interim of sessions of the General Assembly, the federal act is amended to reduce to less than ninety-five percent (95%) the maximum rate of insurance payable by the guarantee agency or reinsurance payable by the Secretary of Education of the United States on insured student loans, upon notification by the corporation to the Legislative Research Commission of the change in the federal act, the corporation may, until the adjournment of the next regular session of the General Assembly, issue bonds or notes for student loans insured by the guarantee agency and reinsured by the Secretary of Education of the United States to the maximum extent permitted by the federal act.

HB 77, AN ACT relating to student dropout prevention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly hereby finds that:

- (a) Little progress has been made in reducing the state's student dropout rate;
 - (b) The number of school dropouts in Kentucky is unacceptable;
 - (c) The factors, such as lack of academic success, poor school attendance, lack of parental support and encouragement, low socioeconomic status, poor health, child abuse, drug and alcohol addictions, alienation from school and community, and other factors that are associated with an increased probability of students dropping out of school, occur long before the end of compulsory school age;
 - (d) Students who drop out of school before graduation are less likely to have the basic capacities as defined in KRS 158.645 and the skills as defined in KRS 158.6451;
 - (e) The number of school dropouts seriously interferes with Kentucky's ability to develop and maintain a well-educated and highly trained workforce;
 - (f) The effects of students dropping out of school can be felt throughout all levels of society and generations in increased unemployment and underemployment, reduced personal and family incomes, increased crime, decreased educational, social, emotional, and physical well-being, and in increased needs for government services; and
 - (g) The positive reduction in school dropouts can only be achieved by comprehensive intervention and prevention strategies.
- (2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2006:
- (a) The statewide annual average school dropout rate will be cut by fifty percent (50%) of what it was in the year 2000;
 - (b) No school will have an annual dropout rate that exceeds five percent (5%); and
 - (c) Each county will have thirty percent (30%) fewer adults between the ages of sixteen (16) and twenty-four (24) without a high school diploma or GED than the county had in the year 2000.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:
- (a) Analyses of annual district and school dropout data as submitted under Section 4 of this Act and KRS 158.6453;
 - (b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy;
 - (c) Comprehensive student programs and services that include, but are not limited to, identification, counseling, mentoring, and other educational strategies for elementary, middle, and high school students who are demonstrating little or no success in school, who have poor school attendance, or who possess other risk factors that contribute to the likelihood of their dropping out of school; and
 - (d) Evaluation procedures to measure progress within school districts, schools, and statewide.
- (2) The department with assistance from appropriate agencies shall provide technical assistance to districts requesting assistance with dropout prevention strategies and the development of district and schoolwide plans.
- (3) The department shall award grants to local school districts for dropout prevention programs based upon available appropriations from the General Assembly and in compliance with administrative regulations promulgated by the Kentucky Board of Education for this purpose. Seventy-five percent (75%) of the available dropout funds shall be directed to services for at-risk elementary and middle school students, including but not limited to, identification, counseling, home visitations, parental training, and other strategies to improve school attendance, school achievement, and to minimize at-risk factors. Twenty-five percent (25%) of the funds shall be directed to services for high school students identified as likely to drop out of school, including, but not limited to, counseling, tutoring, extra instructional support, alternative programming, and other appropriate strategies. Priority for grants shall be awarded to districts that average over a three (3) year period, an annual dropout rate exceeding five percent (5%).
- (4) The department shall disseminate information on best practices in dropout prevention in order to advance the knowledge for district and school level personnel to address the dropout problem effectively.

Section 3. KRS 156.095 is amended to read as follows:

- (1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional

development to improve instruction in the public schools.

- (2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include planning and evaluation assistance or coordination activities.
 - (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
 - (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.
- (3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:
 - (a) Curriculum content and methods of instruction for each content area;
 - (b) School-based decision making;
 - (c) Performance-based student assessment;
 - (d) Nongraded primary programs;
 - (e) Research-based instructional practices;
 - (f) Instructional uses of technology;
 - (g) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
 - (h) Instruction of phonics; and
 - (i) Educational leadership.
- (4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.
- (5) The department shall assist districts with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.
 - (a) Professional development strategies may include, but are not limited to, participation in teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.
 - (b) In planning the use of the four (4) days for professional development under KRS 158.070, priority shall be given to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. Up to one (1) day may be used to provide training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.
 - (c) State funds allocated for professional development may be used to support professional development initiatives that are consistent with local plans, throughout the year for all staff, including classified and certified staff and parents on school councils or committees.
- (6) The Department of Education shall contract with an outside agency to complete an analysis of the current status of the statewide professional development program. The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:

- (a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and
- (b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.

A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports on the status of the statewide professional development program.

- (7) During the ~~2000-2001 and 2001-2002~~ ~~1998-1999 and 1999-2000~~ school years, the Department of Education shall provide intensive, regional training for school personnel ~~conduct an intensive statewide professional development program~~ to address the characteristics and instructional needs of ~~exceptional students and~~ students at risk of school failure and most likely to drop out of school. The training ~~professional development~~ shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with ~~these~~ ~~exceptional students and~~ students ~~at risk of school failure~~. The training ~~professional development~~ for instructional personnel shall be designed to provide and enhance skills of personnel to:
 - (a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;
 - (b) Plan specific instructional strategies to teach at-risk students;
 - (c) Improve the academic achievement of ~~exceptional students and~~ students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;
 - (d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and
 - ~~(e) [(b)]~~ Significantly reduce the dropout rate of all students ~~;~~ and
 - ~~(c) — Prepare all students for a successful transition to adult life.~~

Section 4. KRS 158.148 is amended to read as follows:

- (1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop:
 - (a) Statewide student discipline guidelines to ensure safe schools; and
 - (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement ~~, and to reduce the dropout rate in the state's public schools.~~
- (2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section ~~to improve the learning environment and to reduce dropouts.~~
- (3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under Section 13 of this Act; and in the development of the district-wide safety plan.
- (4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.
 - (a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.
 - (b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.
 - (c) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.
 - (d) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents shall be provided copies of the code.

- ~~[(5) The Department of Education with assistance from the Center for School Safety shall provide technical assistance to those districts requesting assistance with dropout prevention strategies. Reporting requirements shall be established by the Department of Education; however, reports shall be prepared in a manner that will provide data on successful strategies for dropout prevention.]~~
- ~~[(6) The Kentucky Board of Education shall establish criteria for the development of dropout prevention programs and award grants based upon available appropriations from the General Assembly. These grants shall be administered through contracts whereby school districts agree to provide dropout prevention services specified by the Kentucky Board of Education.]~~

Section 5. KRS 159.010 is amended to read as follows:

- (1) Except as provided in KRS 159.030, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.
- (2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him. The parent(s) and child shall be required to attend a one (1) hour counseling session with a school counselor on potential problems of nongraduates.
- (3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.
- (4) Each school district shall contact each student between the ages of sixteen (16) and eighteen (18) who has voluntarily withdrawn from school within three (3) months of the date of withdrawal to encourage the student to reenroll in a regular program, alternative program, or GED preparation program. In the event, the student does not reenroll at that time, the school district shall make at least one (1) more attempt to reenroll the student before the beginning of the school year following the school year in which the student terminated his or her enrollment.**

Section 6. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.
- (2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.
- (3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:
 - (a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;
 - (b) School improvement plans;

- (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
 - (d) Education assistance from highly skilled certified staff under KRS 158.782;
 - (e) Evaluation of school personnel; and
 - (f) Student transfer to successful schools.
- (4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:
- 1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;
 - 2. Reviewing a school's learning environment, efficiency, and academic performance of students;
 - 3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and
 - 4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.
- (b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal.
- (5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.
- (b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below ~~five[eight]~~ percent ~~(5%)[(8%)]~~.
2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.
- (6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.
- (7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

The Committee Substitute to **HB 77** is as follows:

HB 77, AN ACT relating to student dropout prevention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly hereby finds that:
- (a) Little progress has been made in reducing the state's student dropout rate;
 - (b) The number of school dropouts in Kentucky is unacceptable;
 - (c) The factors, such as lack of academic success, poor school attendance, lack of parental support and encouragement, low socioeconomic status, poor health, child abuse, drug and alcohol addictions, alienation from school and community, and other factors that are associated with an increased probability of students dropping out of school, occur long before the end of compulsory school age;
 - (d) Students who drop out of school before graduation are less likely to have the basic capacities as defined in KRS 158.645 and the skills as defined in KRS 158.6451;
 - (e) The number of school dropouts seriously interferes with Kentucky's ability to develop and maintain a well-educated and highly trained workforce;
 - (f) The effects of students dropping out of school can be felt throughout all levels of society and generations in increased unemployment and underemployment, reduced personal and family incomes, increased crime, decreased educational, social, emotional, and physical well-being, and in increased needs for government services; and
 - (g) The positive reduction in school dropouts can only be achieved by comprehensive intervention and prevention strategies.
- (2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2006:
- (a) The statewide annual average school dropout rate will be cut by fifty percent (50%) of what it was in the year 2000;
 - (b) No school will have an annual dropout rate that exceeds five percent (5%); and
 - (c) Each county will have thirty percent (30%) fewer adults between the ages of sixteen (16) and twenty-four (24) without a high school diploma or GED than the county had in the year 2000.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:
- (a) Analyses of annual district and school dropout data as submitted under Section 4 of this Act and KRS 158.6453;
 - (b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy;
 - (c) Comprehensive student programs and services that include, but are not limited to, identification, counseling, mentoring, and other educational strategies for elementary, middle, and high school students who are demonstrating little or no success in school, who have poor school attendance, or who possess other risk factors that contribute to the likelihood of their dropping out of school; and
 - (d) Evaluation procedures to measure progress within school districts, schools, and statewide.
- (2) The department with assistance from appropriate agencies shall provide technical assistance to districts requesting assistance with dropout prevention strategies and the development of district and schoolwide plans.
- (3) The department shall award grants to local school districts for dropout prevention programs based upon available appropriations from the General Assembly and in compliance with administrative regulations promulgated by the Kentucky Board of Education for this purpose. Seventy-five percent (75%) of the available dropout funds shall be directed to services for at-risk elementary and middle school students, including but not limited to, identification, counseling, home visitations, parental training, and other strategies to improve school attendance, school achievement, and to minimize at-risk factors. Twenty-five percent (25%) of the funds shall be directed to services for high school students identified as likely to drop out of school, including, but not limited to, counseling, tutoring, extra instructional support, alternative programming, and other appropriate strategies. Priority for grants shall be awarded to districts that average over a three (3) year period, an annual dropout rate exceeding five percent (5%).
- (4) The department shall disseminate information on best practices in dropout prevention in order to advance the knowledge for district and school level personnel to address the dropout problem effectively.

Section 3. KRS 156.095 is amended to read as follows:

- (1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.
- (2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include planning and evaluation assistance or coordination activities.
 - (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
 - (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.
- (3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:
 - (a) Curriculum content and methods of instruction for each content area;
 - (b) School-based decision making;
 - (c) Performance-based student assessment;
 - (d) Nongraded primary programs;
 - (e) Research-based instructional practices;
 - (f) Instructional uses of technology;
 - (g) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
 - (h) Instruction of phonics; and
 - (i) Educational leadership.
- (4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.
- (5) The department shall assist districts with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.
 - (a) Professional development strategies may include, but are not limited to, participation in teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.
 - (b) In planning the use of the four (4) days for professional development under KRS 158.070, priority shall be given to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. Up to one (1) day may be used to provide training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.
 - (c) State funds allocated for professional development may be used to support professional development initiatives that are consistent with local plans, throughout the year for all staff, including classified and certified staff and parents on school councils or committees.
- (6) The Department of Education shall contract with an outside agency to complete an analysis of the current status of the statewide professional development program. The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations

regarding:

- (a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and
- (b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.

A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports on the status of the statewide professional development program.

- (7) During the ~~2000-2001 and 2001-2002~~~~1998-1999 and 1999-2000~~ school years, the Department of Education shall provide intensive, regional training for school personnel~~conduct an intensive statewide professional development program~~ to address the characteristics and instructional needs of ~~exceptional students and~~ students at risk of school failure and most likely to drop out of school. The training~~professional development~~ shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with ~~these~~~~exceptional students and~~ students ~~at risk of school failure~~. The training~~professional development~~ for instructional personnel shall be designed to provide and enhance skills of personnel to:

- (a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;
- (b) Plan specific instructional strategies to teach at-risk students;
- (c) Improve the academic achievement of ~~exceptional students and~~ students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;
- (d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and
- ~~(e)(b)~~ Significantly reduce the dropout rate of all students; ~~and~~
- ~~(c) Prepare all students for a successful transition to adult life.~~

Section 4. KRS 158.148 is amended to read as follows:

- (1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop:
 - (a) Statewide student discipline guidelines to ensure safe schools; and
 - (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement~~, and to reduce the dropout rate in the state's public schools~~.
- (2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section~~to improve the learning environment and to reduce dropouts~~.
- (3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under Section 13 of this Act; and in the development of the district-wide safety plan.
- (4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.
 - (a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.
 - (b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.
 - (c) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.
 - (d) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all

school handbooks. All school employees and parents shall be provided copies of the code.

~~[(5) The Department of Education with assistance from the Center for School Safety shall provide technical assistance to those districts requesting assistance with dropout prevention strategies. Reporting requirements shall be established by the Department of Education; however, reports shall be prepared in a manner that will provide data on successful strategies for dropout prevention.]~~

~~(6) The Kentucky Board of Education shall establish criteria for the development of dropout prevention programs and award grants based upon available appropriations from the General Assembly. These grants shall be administered through contracts whereby school districts agree to provide dropout prevention services specified by the Kentucky Board of Education.]~~

Section 5. KRS 159.010 is amended to read as follows:

- (1) Except as provided in KRS 159.030, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.
- (2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him. The parent(s) and child shall be required to attend a one (1) hour counseling session with a school counselor on potential problems of nongraduates.
- (3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.
- (4) Each school district shall contact each student between the ages of sixteen (16) and eighteen (18) who has voluntarily withdrawn from school within three (3) months of the date of withdrawal to encourage the student to reenroll in a regular program, alternative program, or GED preparation program. In the event, the student does not reenroll at that time, the school district shall make at least one (1) more attempt to reenroll the student before the beginning of the school year following the school year in which the student terminated his or her enrollment.**

Section 6. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) **(a)** After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.
- (b) The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).**
- (2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.
- (3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences

shall be designed to improve teaching and learning and may include, but not be limited to:

- (a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;
 - (b) School improvement plans;
 - (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
 - (d) Education assistance from highly skilled certified staff under KRS 158.782;
 - (e) Evaluation of school personnel; and
 - (f) Student transfer to successful schools.
- (4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:
- 1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;
 - 2. Reviewing a school's learning environment, efficiency, and academic performance of students;
 - 3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and
 - 4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.
- (b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal.
- (5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.
- (b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).
2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.
- (6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.
- (7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

HB 142, AN ACT relating to members of boards of education.***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

Section 1. KRS 160.280 is amended to read as follows:

- (1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of ~~seventy-five~~~~(forty)~~ dollars ~~(\$75)~~~~(\$40)~~ in any calendar year, and their actual expenses for each regular or special meeting attended. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed ~~two~~~~(one)~~ thousand dollars ~~(\$2,000)~~~~(\$1,000)~~ in any calendar year.
- (2) Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of ~~seventy-five~~~~(forty)~~ dollars ~~(\$75)~~~~(\$40)~~, and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed ~~three thousand~~~~(two thousand five hundred)~~ dollars ~~(\$3,000)~~~~(\$2,500)~~ per calendar year.
- (3) Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.
- (4) All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.
- (5) Board members shall be eligible to participate in any group medical or dental insurance plan provided to employees of the district pursuant to KRS 161.158. Participating board members shall pay the full cost of any premium required for their participation in the plan.

HB 149, AN ACT relating to foster children and adopted children.***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Tuition and mandatory student fees for any public, postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time student:
 - (a) The child meets all entrance requirements for the postsecondary institution;
 - (b) The child maintains academic eligibility while enrolled at the postsecondary institution; and
 - (c) The child is in foster care, an independent living program, or was in the custody of the Cabinet for Families and Children prior to being adopted by a family that resides in Kentucky; or
 - (d) If the child is over age eighteen (18), the child or the child's family participates in the state adoption special needs or subsidy program.
- (2) Upon request of the postsecondary institution, the Cabinet for Families and Children shall confirm the status of the child seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 620.050.
- (3) If the child who meets the requirements of subsection (1) of this section receives a scholarship for tuition, the postsecondary institution is required to waive tuition costs and fees up to an amount not covered by the scholarship.
- (4) The child shall be eligible for the tuition waiver:
 - (a) For no more than four (4) years after the date of graduation from high school; and
 - (b) For a period of five (5) years, if satisfactory progress is achieved or maintained.
- (5) No later than six (6) months after the effective date of this Act, the Cabinet for Families and Children shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement provisions of subsection (2) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Nothing in Section 1 of this Act shall be construed to:

- (1) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
- (2) Limit the participation of a foster or adopted child in any other program of financial assistance for postsecondary education; or
- (3) Require any postsecondary institution to waive costs or fees relating to room and board.

HJR 14, A JOINT RESOLUTION urging school councils across the Commonwealth to consider adopting dress codes that require school uniforms.

WHEREAS, the General Assembly is committed to the continuous support and improvement of elementary and secondary education in the Commonwealth; and

WHEREAS, a safe and disciplined learning environment is essential for students' success in school; and

WHEREAS, current research reports that parents, teachers, and school officials agree that school uniforms are a positive way to reduce student discipline problems, increase school safety, and enhance the learning environment; and

WHEREAS, school councils have the authority to determine school dress codes;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That each school council in the Commonwealth is urged to consider adopting a dress code that requires school uniforms.

Section 2. That the Kentucky Center for School Safety shall, upon request, provide technical assistance to those schools seeking to adopt a dress code that requires school uniforms.

Section 3. That the Kentucky Center for School Safety shall collect data from schools adopting a dress code that requires school uniforms to evaluate the effectiveness of the policy and present its findings to the Legislative Research Commission by December 15, 2001.

Section 4. That a copy of this resolution be sent to the Commissioner of Education to send to the following entities: Each Kentucky school council, the Center for School Safety, the Kentucky Association of School Councils, the Kentucky Association of Elementary School Principals, the Kentucky Association of School Administrators, the Kentucky Association of School Superintendents, the Kentucky Association of Secondary School Principals, the Kentucky Congress of Parents and Teachers, the Kentucky Education Association, and the Kentucky School Boards Association.

The Committee on Education reported **HB 76**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 76** is as follows:

HB 76, AN ACT relating to alternative teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.048 is amended to read as follows:

(1) The General Assembly hereby finds that:

- (a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;
2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;
3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and
4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There are hereby established alternative certification program options as described in subsections (3) through ~~(6)~~~~(5)~~ of this section.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.

(2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the secondary level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

- (a) The application contains documentation of all education and work experience;
- (b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is

being sought;

- (c) The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four (4) point scale from a nationally or regionally accredited postsecondary institution; and
- (d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular provisional certificate.

An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate, and subject to certificate renewal requirements the same as any other teacher with a regular provisional certificate.

- (3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:
 - (a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.
 - (b) Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.
 - (c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.
 - (d) Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.
 - (e) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.
- (4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:
 - (a) A master's degree or doctoral degree in the academic subject area for which certification is sought;
 - (b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally or nationally accredited institution of higher education; and
 - (c) Successful completion of the teacher internship requirement imposed under KRS 161.030.
- (5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.
- (6) **Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years, to a veteran for teaching at the elementary, secondary, and secondary vocational education levels with the following qualifications:**
 - (a) **Discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release;**
 - (b) **At least a bachelor's degree in the subject matter area or closely related area for which certification is sought, issued by a regionally or nationally accredited institution of higher education;**
 - (c) **Either a grade point average of two and five-tenths (2.5) on a four (4) point scale for a bachelor's degree or an advanced degree; and**
 - (d) **A passing score on the written exit assessment examination designated by the Education Professional Standards Board for content knowledge.**

Upon an offer of employment by a school district, the eligible veteran shall receive a one (1) year provisional teaching

certificate with approval by the Education Professional Standards Board of a joint application by the veteran and the employing school district. During this year, the veteran shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. Upon successful completion of the internship program, the veteran shall receive a regular professional certificate.

- (7) A teacher certified under subsections (2) to ~~(6)~~~~(5)~~ of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.
- (8) Veterans who possess an honorable discharge after at least six (6) years of full-time active duty, and who have at least four (4) years of occupational experience in the area in which they seek certification as a vocational industrial education teacher, shall apply for certification under and meet the requirements of the administrative regulations promulgated by the Education Professional Standards Board.
- ~~(9)~~~~(7)~~ Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:
- (a) An out-of-state license to teach exceptional students;
 - (b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and
 - (c) Successful completion of the teacher internship requirement required under KRS 161.030.

The Committee on Labor and Industry reported **HB 67**, with Committee Substitute attached thereto, and **HB 188**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 67, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that deceptive promotional advertising of prizes and sweepstakes is a matter affecting vital public interests for the purpose of applying the Consumer Protection Act, KRS Chapter 367. The General Assembly further finds that the public health, welfare, and interest require a strong and effective law regarding deceptive promotional advertising of prizes and sweepstakes in order to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) "Promotional offer" means any mailing or written communication used to induce or invite a recipient to claim a prize, attend a sales presentation, or conduct any business in this state whether for goods or services.
- (2) "Person" means a natural person, partnership, corporation, trust, estate, association, cooperative, or other legal entity whether for profit or not for profit.
- (3) "Prize" means a gift, reward, award, travel coupon or certificate, free item, free service, or any other item or service offered in a promotional offer, sweepstakes, or prize promotion that is different and distinct from the goods, services, or property promoted or offered by the person making the promotion or offer. "Prize" does not include an item where all of the following factors are present:
 - (a) No element of chance is involved in obtaining the item;
 - (b) The recipient has the right to review the merchandise offered for sale without obligation for at least ten (10) days with the further right to obtain a full refund within thirty (30) days for return of undamaged merchandise;
 - (c) The recipient may keep the item offered without obligation; and
 - (d) The recipient is not required to spend any sum in order to receive the item offered.
- (4) "Recipient" means any person who has received or is intended to receive a promotional offer; and
- (5) "Pseudo-check" means a document that has visual characteristics similar to, but is not actually, a negotiable instrument or currency. The term does not include clearly marked samples or specimens of negotiable instruments used to solicit orders for the purchase of preprinted negotiable instruments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) A promotional offer shall disclose on the same page in which a prize is first mentioned in at least twelve (12) point type:
 - (a) The name, mailing address, street address, and telephone number of the person making the promotional offer;
 - (b) The verifiable fair market value of each prize offered;
 - (c) The fact that no purchase is necessary to enter the promotion; and
 - (d) The promotion's expiration date.

- (2) A promotional offer shall disclose the recipient's odds of winning a prize if an element of chance is involved, expressed using Arabic numerals as a ratio of the total numbers of each prize relative to the total number of offers distributed. All disclosures required by this subsection shall be printed adjacent to and on the same page as the first mention of the prize and shall utilize a typeface the same color as and no smaller than that utilized to mention the prize being offered. Subsequent mentions of a prize shall not utilize a type size larger than that used for the first mention of the prize.
- (3) The promotional offer shall include a form, or a designated place on the regular order form, allowing the recipient to:
- (a) Enter the promotion on the same terms as a person making a purchase without actually having to purchase a product or service; and
 - (b) Have the recipient's name removed from the mailing list of the person making the promotional offer so that the recipient will not receive future promotional offers at the recipient's address for five (5) years after return of the form.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A promotional offer shall not:

- (1) State, represent, or imply that a recipient has won a particular prize unless the recipient has won that prize;
- (2) State, represent, or imply that a recipient has a special status or relationship to the person making the promotional offer unless that recipient has such a special status or relationship;
- (3) Require that an entry be accompanied by a payment for a product or service ordered;
- (4) Use a pseudo-check unless the pseudo-check contains a statement printed in at least twelve (12) point type diagonally across its face that it is not a negotiable instrument and has no cash value;
- (5) Use documents, lettering, forms, names, titles, or symbols resembling those of state or federal government agencies;
- (6) State, represent, or imply that the purchase of a product or service will allow an entry to receive priority, make the recipient eligible to receive additional prizes or special treatment for future promotional offers, or that the purchase will affect the recipient's odds of winning a prize; or
- (7) Use a fictitious person or name for officials, employees, agents, or representatives of the person making the promotional offer.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) Any person aggrieved by a violation of any provision of Sections 1 to 6 of this Act may bring an action in a court of competent jurisdiction against the violator. If the court finds that the defendant has violated any provision of Sections 1 to 6 of this Act, it shall enjoin the defendant from a continuation thereof and award the plaintiff a reasonable attorneys fee. Additionally, the plaintiff shall be entitled to recover three (3) times the amount of any actual damages sustained or three (3) times the fair market value of a prize represented to be awarded to a recipient, whichever is greater. Nothing in this subsection shall abridge any rights to recover punitive damages or to proceed against the violator under any other provision of law.
- (2) Any recipient bringing an action under this section must bring the action within one (1) year after any action of the Attorney General has been terminated or within two (2) years after the violation of Sections 1 to 6 of this Act, whichever is later. However, the time limits set out in this subsection may be tolled in the same manner as other causes of action as set out in KRS 413.170.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) A violation of Sections 1 to 6 of this Act by any person making a promotional offer shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.
- (2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts and practices declared unlawful by Sections 1 to 6 of this Act.
- (3) Nothing in Sections 1 to 6 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.
- (4) The Attorney General may promulgate administrative regulations reasonable or necessary to carry out the purposes and intent of Sections 1 to 6 of this Act.

The Committee Substitute to HB 67 is as follows:

HB 67, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that deceptive promotional advertising of prizes and sweepstakes is a matter affecting vital public

interests for the purpose of applying the Consumer Protection Act, KRS Chapter 367. The General Assembly further finds that the public health, welfare, and interest require a strong and effective law regarding deceptive promotional advertising of prizes and sweepstakes in order to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) "Promotional offer" means any mailing or written communication used to induce or invite a recipient to claim a prize, attend a sales presentation, or conduct any business in this state whether for goods or services.
- (2) "Person" means a natural person, partnership, corporation, trust, estate, association, cooperative, or other legal entity whether for profit or not for profit.
- (3) "Prize" means a gift, reward, award, travel coupon or certificate, free item, free service, or any other item or service offered in a promotional offer, sweepstakes, or prize promotion that is different and distinct from the goods, services, or property promoted or offered by the person making the promotion or offer. "Prize" does not include an item where all of the following factors are present:
 - (a) No element of chance is involved in obtaining the item;
 - (b) The recipient has the right to review the merchandise offered for sale without obligation for at least ten (10) days with the further right to obtain a full refund within thirty (30) days for return of undamaged merchandise;
 - (c) The recipient may keep the item offered without obligation; and
 - (d) The recipient is not required to spend any sum in order to receive the item offered.
- (4) "Recipient" means any person who has received or is intended to receive a promotional offer; and
- (5) "Pseudo-check" means a document that has visual characteristics similar to, but is not actually, a negotiable instrument or currency. The term does not include clearly marked samples or specimens of negotiable instruments used to solicit orders for the purchase of preprinted negotiable instruments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) A promotional offer shall disclose on the same page in which a prize is first mentioned in at least twelve (12) point type:
 - (a) The name, mailing address, street address, and telephone number of the person making the promotional offer;
 - (b) The verifiable fair market value of each prize offered;
 - (c) The fact that no purchase is necessary to enter the promotion; and
 - (d) The promotion's expiration date.
- (2) A promotional offer shall disclose the recipient's odds of winning a prize if an element of chance is involved, expressed using Arabic numerals as a ratio of the total numbers of each prize relative to the total number of offers distributed. All disclosures required by this subsection shall be printed adjacent to and on the same page as the first mention of the prize and shall utilize a typeface the same color as and no smaller than that utilized to mention the prize being offered. Subsequent mentions of a prize shall not utilize a type size larger than that used for the first mention of the prize.
- (3) The promotional offer shall include a form, or a designated place on the regular order form, allowing the recipient to:
 - (a) Enter the promotion on the same terms as a person making a purchase without actually having to purchase a product or service; and
 - (b) Have the recipient's name removed from the mailing list of the person making the promotional offer so that the recipient will not receive future promotional offers at the recipient's address for five (5) years after return of the form.
- (4) Advertisements, mailings, or other written communications made by a retail business with a permanent physical location in Kentucky offering an invitation to enter a drawing or sweepstakes shall be exempt from the provisions of this section if the drawing is held at the retailer's permanent physical location in Kentucky and no purchase is necessary for entry.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A promotional offer shall not:

- (1) State, represent, or imply that a recipient has won a particular prize unless the recipient has won that prize;
- (2) State, represent, or imply that a recipient has a special status or relationship to the person making the promotional offer unless that recipient has such a special status or relationship;
- (3) Require that an entry be accompanied by a payment for a product or service ordered;
- (4) Use a pseudo-check unless the pseudo-check contains a statement printed in at least twelve (12) point type diagonally across its face that it is not a negotiable instrument and has no cash value;
- (5) Use documents, lettering, forms, names, titles, or symbols resembling those of state or federal government agencies;

- (6) State, represent, or imply that the purchase of a product or service will allow an entry to receive priority, make the recipient eligible to receive additional prizes or special treatment for future promotional offers, or that the purchase will affect the recipient's odds of winning a prize.; or
- (7) Use a fictitious person or name for officials, employees, agents, or representatives of the person making the promotional offer.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) Any person aggrieved by a violation of any provision of Sections 1 to 6 of this Act may bring an action in a court of competent jurisdiction against the violator. If the court finds that the defendant has violated any provision of Sections 1 to 6 of this Act, it shall enjoin the defendant from a continuation thereof and award the plaintiff a reasonable attorneys fee. Additionally, the plaintiff shall be entitled to recover three (3) times the amount of any actual damages sustained or three (3) times the fair market value of a prize represented to be awarded to a recipient, whichever is greater. Nothing in this subsection shall abridge any rights to recover punitive damages or to proceed against the violator under any other provision of law including prosecution under criminal law as a Class D felony for intentional violation of Sections 1 to 6 of this Act.
- (2) Any recipient bringing an action under this section must bring the action within one (1) year after any action of the Attorney General has been terminated or within two (2) years after the violation of Sections 1 to 6 of this Act, whichever is later. However, the time limits set out in this subsection may be tolled in the same manner as other causes of action as set out in KRS 413.170.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) A violation of Sections 1 to 6 of this Act by any person making a promotional offer shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.
- (2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts and practices declared unlawful by Sections 1 to 6 of this Act.
- (3) Nothing in Sections 1 to 6 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.
- (4) The Attorney General may promulgate administrative regulations reasonable or necessary to carry out the purposes and intent of Sections 1 to 6 of this Act.

HB 188, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of ~~one thousand dollars (\$1,000) to~~ five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier. Notwithstanding any provision of this chapter to the contrary, all proceeds collected for a violation of this section or KRS 304.12-230 on behalf of an injured worker shall be paid to the injured worker. If an injured worker is represented by an attorney for actions arising under this section or KRS 304.12-230 that result in imposition of fines, the commissioner shall approve a reasonable attorney's fee which shall be paid by the carrier. Any sums paid to the injured worker or awarded to an attorney under this section shall be in addition to any sums or attorney's fees awarded or approved under this chapter.

The Committee Substitute to **HB 188** is as follows:

HB 188, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of ~~one thousand dollars (\$1,000) to~~ five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier. Notwithstanding any provision of this chapter to the contrary, all

proceeds collected for a violation of this section or KRS 304.12-230 on behalf of an injured worker shall be paid to the injured worker. If an injured worker is represented by an attorney for actions arising under this section or KRS 304.12-230 that result in imposition of fines, the commissioner shall approve a reasonable attorney's fee which shall be paid by the carrier. Any sums paid to the injured worker or awarded to an attorney under this section shall be in addition to any sums or attorney's fees awarded or approved under this chapter. In addition to the fine and attorney's fee provided in this section, the injured worker may also recover in the Circuit Court all other damages at law sustained by the worker.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 341**, with Committee Substitute attached thereto, **HB 350**, with Committee Substitute attached thereto, and **HR 43** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 341, AN ACT proposing an amendment to Section 112 of the Constitution of Kentucky, relating to family courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 112 of the Constitution of Kentucky be amended to read as follows:

(1) Circuit Court shall be held in each county.

(2) The Circuit Court districts existing on the effective date of this amendment to the Constitution shall continue under the name "Judicial Circuits," the General Assembly having power upon certification of the necessity therefor by the Supreme Court to reduce, increase or rearrange the judicial districts. A judicial circuit composed of more than one county shall be as compact in form as possible and of contiguous counties. No county shall be divided in creating a judicial circuit.

(3) The number of circuit judges in each district existing on the effective date of this amendment shall continue, the General Assembly having power upon certification of the necessity therefor by the Supreme Court, to change the number of circuit judges in any judicial circuit.

(4) In a judicial circuit having only one judge, he shall be the chief judge. In judicial circuits having two or more judges, they shall select biennially a chief judge, and if they fail to do so within a reasonable time, the Supreme Court shall designate the chief judge. The chief judge shall exercise such authority and perform such duties in the administration of his judicial circuit as may be prescribed by the Supreme Court. The Supreme Court may provide by rules for administration of judicial circuits by regions designated by it.

(5) The Circuit Court shall have original jurisdiction of all justiciable causes not vested in some other court. It shall have such appellate jurisdiction as may be provided by law.

(6) The Supreme Court may designate one or more divisions of Circuit Court within a judicial circuit as a family court division. A Circuit Court division so designated shall retain the general jurisdiction of the Circuit Court and shall have additional jurisdiction as may be provided by the General Assembly. The Chief Justice may, upon a determination of need by the Supreme Court, assign a District Judge possessing the qualifications of a Circuit Judge to serve in a Circuit Court designated to have a family court division.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 341** is as follows:

HB 341, AN ACT proposing an amendment to Section 112 of the Constitution of Kentucky, relating to family courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 112 of the Constitution of Kentucky be amended to read as follows:

(1) Circuit Court shall be held in each county.

(2) The Circuit Court districts existing on the effective date of this amendment to the Constitution shall continue under the name "Judicial Circuits," the General Assembly having power upon certification of the necessity therefor by the Supreme Court to reduce, increase or rearrange the judicial districts. A judicial circuit composed of more than one county shall be as compact in form as possible and of contiguous counties. No county shall be divided in creating a judicial circuit.

(3) The number of circuit judges in each district existing on the effective date of this amendment shall continue, the General Assembly having power upon certification of the necessity therefor by the Supreme Court, to change the number of circuit judges in any judicial circuit.

(4) In a judicial circuit having only one judge, he shall be the chief judge. In judicial circuits having two or more judges, they shall select biennially a chief judge, and if they fail to do so within a reasonable time, the Supreme Court shall designate the chief judge. The chief judge shall exercise such authority and perform such duties in the administration of his judicial circuit as may be prescribed by the Supreme Court. The Supreme Court may provide by rules for administration of judicial circuits by regions designated by it.

(5) The Circuit Court shall have original jurisdiction of all justiciable causes not vested in some other court. It shall have such appellate jurisdiction as may be provided by law.

(6) The Supreme Court may designate one or more divisions of Circuit Court within a judicial circuit as a family court division. A Circuit Court division so designated shall retain the general jurisdiction of the Circuit Court and shall have additional jurisdiction as may be provided by the General Assembly. The Chief Justice may, upon a determination of need by the Supreme Court, assign a District Judge possessing the qualifications of a Circuit Judge to serve in a Circuit Court designated to have a family court division.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The proposed amendment shall be summarized on the ballot and presented to the voters in the following language: "Are you in favor of amending Section 112 of the Kentucky Constitution to authorize the Supreme Court to designate a family court division of Circuit Court within a judicial circuit?"

HB 350, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, primary, and runoff primary elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the ~~third~~^{fourth} Monday in May of each year.
- (4) A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.
- (7) All public schools shall be closed on the day of any regular or primary election.

Section 2. KRS 118.561 is amended to read as follows:

- (1) Subject to KRS 118.555, on the first Tuesday after the ~~third~~^{fourth} Monday in May, in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.
- (2) Hours of voting shall be in accordance with KRS 118.035.
- (3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

Section 3. KRS 158.060 is amended to read as follows:

- (1) Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. School shall be closed on the day of a regular or primary election. The legal holiday designated by the Kentucky Board of Education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as a school day.
- (2) Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the chief state school officer. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the noninstructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of noninstructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's instructional day, or the time teachers are required to remain at school after the students are dismissed.
- (3) Except for children with disabilities and children attending the primary school program who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the

commissioner of education and children attending a school district where the local board has approved a schedule that provides at least the equivalent of six (6) hours of daily instruction during the school year, a minimum of six (6) hours of actual school work shall constitute a school day. Kindergarten programs may be operated for less than six (6) hours without state board approval. The Kentucky Board of Education, upon recommendation of the chief state school officer, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.

- (4) Teachers shall be provided additional time for nonteaching activities. The nonteaching time shall be used to provide teachers opportunities for professional development activities as provided in KRS 156.095, instructional planning, school-based decision making as provided in KRS 160.345, curriculum development, and outreach activities involving their students' families and the community.

Section 4. KRS 158.070 is amended to read as follows:

- (1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.
- (2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:
 - (a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;
 - (b) A pupil's required attendance in school shall be for at least the minimum instructional term; and
 - (c) No teacher shall be required to teach more than the minimum term during the school year.
- (3)
 - (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095.
 - (b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 - (c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
 - (d) Each local board may use two (2) days for planning activities without the presence of pupils.
 - (e) Each local board may use the number of days deemed necessary for:
 - 1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 - 2. Local disaster which would endanger the health or safety of children; and
 - 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.
- (4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.
- (5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular or primary election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.
- (6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

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- (7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.
- (8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

The Committee Substitute to **HB 350** is as follows:

HB 350, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, primary, and runoff primary elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the ~~third~~^{fourth} Monday in May of each year.
- (4) A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.
- (7) All public schools shall be closed on the day of any regular election.

Section 2. KRS 118.561 is amended to read as follows:

- (1) Subject to KRS 118.555, on the first Tuesday after the ~~third~~^{fourth} Monday in May, in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.
- (2) Hours of voting shall be in accordance with KRS 118.035.
- (3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

HR 43, A RESOLUTION urging lobbyists to honor a moratorium on political fundraising when the Kentucky General Assembly is in session.

WHEREAS, it is in the public interest that lobbyists join members of the Kentucky General Assembly along with other public servants, including the Governor, to take steps to elevate public confidence in government; and

WHEREAS, the public confidence in the independent judgment of public servants has sometimes been eroded by the perception of an inappropriately close relationship between lobbyists and those elected to public service; and

WHEREAS, lobbyists and members of the Kentucky General Assembly and other public servants will achieve the highest level of credibility by declaring a moratorium on political fundraising when the Kentucky General Assembly is in session; and

WHEREAS, it is in the public interest for elected officials to take steps to check the declining participation in the

democratic process;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges lobbyists to refrain from supporting political fundraisers which directly or indirectly benefit the political campaigns of members of the Kentucky General Assembly when the General Assembly is in session.

The Committee on Natural Resources and Environment reported **HB 216**, with Committee Amendment attached thereto, **HB 357**, and **HCR 34**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 216, AN ACT relating to hunting and fishing licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.175 is amended to read as follows:

- (1) The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:
 - (a) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;
 - (b) A short-term sport fishing license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;
 - (c) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;
 - (d) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;
 - (e) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;
 - (f) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;
 - (g) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;
 - (h) A junior statewide hunting license, which may be issued to a person before he has reached his sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age;
 - (i) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his own lands or upon the lands of another person, if the holder of the license shall have first obtained a written consent as provided in KRS 150.092;
 - (j) Taxidermist licenses, commercial and noncommercial, which authorize the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;
 - (k) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;
 - (l) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be

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used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;

- (m) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;
- (n) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;
- (o) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;
- (p) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license or a nonresident shooting preserve license;
- (q) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license shall be good only for the preserve for which it was issued and shall remain in effect only for one (1) year. These licenses shall be issued in ink by the preserve manager, and he shall ensure that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, may establish and regulate hunting preserves, either private or commercial;
- (r) A big game permit and a junior big game permit, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorize the holder to take or pursue deer, bear, or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting;
- (s) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;
- (t) A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;
- (u) A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;
- (v) A short-term hunting license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license, except for hunting big game species for which an annual nonresident hunting license shall be required, and according to the provisions of the laws and administrative regulations of the department;
- (w) A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;
- (x) A Kentucky waterfowl permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;
- (y) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged;
- (z) A migratory game bird permit, which, in combination with a statewide hunting license and compliance with applicable federal law, allows the holder to take migratory shore or upland game birds; and
- (aa) A senior/disabled combination hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland game birds, and which shall be available to a Kentucky resident who is:
 - 1. Sixty-five (65) years of age or older;
 - 2. An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or
 - 3. Declared permanently and totally disabled by the Federal Social Security Administration, the United States Office of Personnel Management, the Department of Workers' Claims, or its equivalent from another state, any retirement system within or without the Commonwealth, or the United States Railroad Retirement Board.

The senior/disabled combination license shall not be valid unless the holder carries proof of residency and proof of age or disability, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license.

The Committee Amendment No. 1 to **HB 216** is as follows:

On page 5, line 27, after "Management," by inserting "the Teachers' Retirement System of the State of Kentucky"; and

On page 6, lines 1 and 2, beginning after "state," by deleting "any retirement system within or without the Commonwealth,".

HB 357, AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

In addition to the game permits issued under Section 3 of this Act, the commission may issue a special permit to an incorporated nonprofit wildlife conservation organization. In a license year, no more than two (2) special permits may be issued per species for which a game permit is required. An organization that receives a special permit issued under this section may sell and transfer the permit if all proceeds of the sale are used in Kentucky for wildlife management.

SECTION 2. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) In this section "recreational activity" means hunting, fishing, or trapping for sport.
- (2) For a special department-sponsored event or program involving a recreational activity, the commission may waive the requirement that participants hold licenses required under this chapter if the commission finds that:
 - (a) The special event or program will provide education in or appreciation of the recreational activity; and
 - (b) The waiver of the license requirement will not result in a substantial loss of revenue to the department.
- (3) The department shall, for one (1) weekend each year, suspend enforcement of the requirement that persons fishing in the waters of the Commonwealth buy and hold a license.

Section 3. KRS 150.175 is amended to read as follows:

- (1) The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:
 - (a) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;
 - (b) A short-term sport fishing license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;
 - (c) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;
 - (d) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;
 - (e) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;
 - (f) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;
 - (g) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;

- (h) A junior statewide hunting license, which may be issued to a person before he has reached his sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age;
- (i) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his own lands or upon the lands of another person, if the holder of the license shall have first obtained a written consent as provided in KRS 150.092;
- (j) Taxidermist licenses, commercial and noncommercial, which authorize the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;
- (k) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;
- (l) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;
- (m) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;
- (n) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;
- (o) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;
- (p) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license or a nonresident shooting preserve license;
- (q) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license shall be good only for the preserve for which it was issued and shall remain in effect only for one (1) year. These licenses shall be issued in ink by the preserve manager, and he shall ensure that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, may establish and regulate hunting preserves, either private or commercial;
- (r) ~~[A big-]~~Game permits~~[permit]~~ and ~~[a] junior~~~~[big]~~ game permits~~[permit]~~, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorize the holder to take or pursue the specified game species~~[deer, bear, or wild turkey,]~~ in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting;
- (s) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;
- (t) A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;
- (u) A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;
- (v) A short-term hunting license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license~~[, except for hunting big game species for which an annual nonresident hunting license shall be required, and]~~ according to the provisions of the laws and administrative regulations of the department;
- (w) A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;
- (x) A Kentucky waterfowl permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;

- (y) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged;
- (z) A migratory game bird permit, which, in combination with a statewide hunting license and compliance with applicable federal law, allows the holder to take migratory shore or upland game birds; ~~and~~
- (aa) A senior/disabled combination hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland game birds, and which shall be available to a Kentucky resident who is:
 1. Sixty-five (65) years of age or older; or
 2. An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or
 3. Declared permanently and totally disabled by the Federal Social Security Administration, the Department of Workers' Claims, or its equivalent from another state, or the United States Railroad Retirement Board.

The senior/disabled combination license shall not be valid unless the holder carries proof of residency and proof of age or disability, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license; and

(bb) A sportsman's license for residents that includes an annual hunting and fishing license and such permits as allowed by administrative regulations promulgated by the department.

Section 4. KRS 150.300 is amended to read as follows:

- (1) No person shall, without first securing the permission of the commissioner, enter upon the premises of a propagation farm, game farm or game refuge or fish hatchery and take wildlife; or, without the consent of the property owner, enter upon any pond and take wildlife or foul the waters of any pond or farm with a substance injurious to life or growth of wildlife, or break or destroy any dam, reservoir or embankment or divert the waters or otherwise willfully damage the farm or pond. ~~[No person, except bona fide employees in line of duty, shall go upon the premises of any propagation farm, state game farm, or game refuge or fish hatchery accompanied by a dog of any type or description or while carrying firearms upon or about his person.]~~
- (2) It is unlawful for any person to mar, deface, destroy or in any wise damage, or attempt to mar, deface, destroy or damage any sign or posted notice upon any game farm, game or wildlife refuge or fish hatchery in the state.

Section 5. KRS 150.620 is amended to read as follows:

For the purpose of encouraging and developing public interest in wildlife and carrying out the policy of the Commonwealth of Kentucky under KRS Chapter 150, the Department of Fish and Wildlife Resources Commission, as a state agency, and based upon investigations and recommendations of the commission, is hereby authorized to acquire lands including any improvements thereon by purchase, condemnation or lease from the State Property and Buildings Commission or from others, and partly by any or all of such means, and to thereafter establish, improve, maintain and operate public shooting and fishing grounds and similar or related recreational facilities thereon, and for the purpose of paying the cost of any such purchase or condemnation and the maintenance and operation expenses may use and apply any funds available for that purpose. The payments under each such lease shall be deemed an administrative and operating expense of the department, and such payments may be secured by a pledge of and made from all or any part of the funds coming under the control of the department including the game and fish fund, as may be provided and specified in the lease. The commissioner, with the approval of the commission may sublease any lands and improvements thereon acquired under the provisions of this chapter for agricultural and for any purpose deemed by the commission to be incidental or beneficial to the maintenance and operation of the balance of said lands and improvements for the purpose herein stated. The commission may impose and enforce special regulations in the maintenance and operation of the facilities and lands acquired under the provisions of this section or lands that are managed by the department under a cooperative agreement and charge such rates as may be deemed fair and reasonable for the use of and participation of the public in the facilities and lands and lease payments aforesaid may be made a first charge on the income and revenues from the maintenance and operation of the facilities and lands and from the sublease of any portion thereof, to be supplemented with any other funds available for that purpose.

HCR 34, A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife Conservation to conduct three meetings and to report its findings.

WHEREAS, the Task Force on Funding for Wildlife Conservation, authorized by the 1996 Regular Session of the General Assembly and reauthorized by the 1998 Regular Session of the General Assembly, presented recommendations to the 1998 General Assembly;

WHEREAS, these recommendations will be affected by future funding developments; and

WHEREAS, these recommendation cover a broad range of policy, regulatory, and legislative changes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate

concurring therein:

Section 1. The Task Force on Funding for Wildlife Conservation is reauthorized with its original membership. The task force shall convene once in 2000 and twice in 2001 to assess the progress being made toward implementing the recommendations from its October 1997 report.

Section 2. The task force shall report its findings to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue before October 31, 2001.

Section 3. Staff services to be utilized in conducting this assessment and reporting its findings are estimated to cost seven thousand five hundred dollars (\$7,500). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HCR 34** is as follows:

On page 1, by deleting lines 8 through 11; and

On page 1, after line 7, by adding the following:

"Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date."

The Committee on Licensing and Occupations reported **HB 294** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 294, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
 - (a) Bingo in which the gross receipts do not exceed a total of fifteen thousand dollars (\$15,000) per year;
 - (b) A raffle or raffles for which the gross receipts do not exceed fifteen thousand dollars (\$15,000) per year; and
 - (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed fifteen thousand dollars (\$15,000) per year.However, at no time shall a charitable organization's total limitations under this subsection exceed fifteen thousand dollars (\$15,000).
- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the division in writing, on a form issued by the division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter, except:
 - (a) Payment of the fee imposed under the provisions of KRS 238.570; and
 - (b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.
- (3) If an organization exceeds the limit imposed by any subsection of this section it shall:
 - (a) Report the amount to the division; and
 - (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the division shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (6) If the division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period

of two (2) years prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

- (a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or
2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;
- (b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;
- (c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the division, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and
- (d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the division; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. **However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing in a Kentucky county other than that in which the organization's office or place of business is located if the organization notifies the division in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the division, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the division shall be received prior to the conduct of the raffle drawing at the new location.** Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

- (a) The name and address of the charitable organization;
- (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;
- (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
- (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;
- (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;
- (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
- (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
- (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;
- (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
- (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

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- (k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the division; and
 - (l) Any other information the division deems appropriate.
- (10) The division may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- (11) The division shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

Section 2. KRS 238.540 is amended to read as follows:

- (1) Except as provided in subsection (8)(d) of Section 1 of this Act, charitable gaming shall be conducted by a licensed charitable organization at only one (1) location and at the date and time which shall be stated on the license. A license holder shall notify the division at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the division shall be received by the licensee prior to the conduct of charitable gaming at a new location.
- (2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.
- (3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.
- (4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. Any effort or attempt to disguise any other type of compensation shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.
- (5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.
- (6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.
- (7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.
- (8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number.

Calendar

HB 191, HB 193, HB 194, HB 205, HB 240, HB 241, HB 242, HB 249, HB 303, HB 340, HB 92, HB 139, HB 140, HB 181, HJR 5, HB 81, HB 202, HB 237, HB 255, HB 274, HB 304, and HB 312 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 160, HB 92, HB 139, HB 140, HB 191, HB 193, HB 194, HB 205, HB 240, HB 241, HB 242, HB 249, HB 274, HB 303, HB 312, HB 340, and HJR 5** have been posted for passage in the Orders of the Day for January 20, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 159** and **HB 237**

Representative Stumbo moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Representative Bowling moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following **Legislative Citation No. 15**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Kentucky School for the Deaf Football Team upon being named by Silent News Magazine as the 1999 National Deaf 8-Man Football Team Champions. Inasmuch as this extraordinary team, under the skilled tutelage of the outstanding coaching staff led by Head Coach Paul Kulick, has enjoyed a stellar year, culminating in earning this prestigious title, the members of this distinguished body are delighted to join with Representative John W. D. Bowling in applauding these phenomenal young athletes, who count among their members, Chris Harris, named United States Player of the Year and First Team/All American; Jeremy Casey, Jimmy Rae Campbell, Phillip Vance and Lee Brock, all named First Team/All American; for their well-deserved accolades and commending them for bringing honor and acclaim to the Kentucky School for the Deaf and the Commonwealth of Kentucky. Done in Frankfort, this nineteenth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 15 was adopted without objection.

Orders of the Day

HB 49 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HB 49** be passed.

Representative Branham moved that **HB 49** be laid on the Clerk's Desk. Rejected.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 19, 2000 roll call on **HB 49** - Appendix.)

HB 49 was passed and the title agreed to.

Representative Coleman moved that the vote by which **HB 49** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 69, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Floor Amendment No. 1 to **HB 69**. Agreed.

Representative Collins moved that **HB 69**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See January 19, 2000 roll call on **HB 69** - Appendix.)

HB 69, as amended, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 69**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 261, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Substitute No. 1 to **HB 261**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 261**. Agreed.

Representative Barrows moved that **HB 261**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See January 19, 2000 roll call on **HB 261** - Appendix.)

Representative Barrows moved the adoption of Floor Amendment No. 2 Title. Agreed; and the title was agreed to.

HB 261, by way of Committee Substitute as amended, was passed.

Representative Barrows moved that the vote by which **HB 261**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 250, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HB 250** be passed.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **HB 250**. Agreed.

Representative Lee moved that **HB 250**, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See January 19, 2000 roll call on **HB 250** - Appendix.)

Representative Stumbo moved the adoption of the Floor Amendment No. 2 Title to **HB 250**. Agreed; and the title was agreed to.

HB 250, as amended, was passed.

Representative Lee moved that the vote by which **HB 250**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 3** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 19, 2000 roll call on **HB 3** - Appendix.)

HB 3 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 3** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 9 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 9** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See January 19, 2000 roll call on **HB 9** - Appendix.)

HB 9 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 9** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 52, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved the adoption of the Committee Substitute No. 1 to **HB 52**. Agreed.

Representative L. Belcher moved that **HB 52**, by way of Committee Substitute be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See January 19, 2000 roll call on **HB 52** - Appendix.)

HB 52, by way of Committee Substitute was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 52**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of the Committee Substitute No. 1 to **HB 71**. Agreed.

Representative Kerr moved that **HB 71**, by way of Committee Substitute be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See January 19, 2000 roll call on **HB 71** - Appendix.)

HB 71, by way of Committee Substitute, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 71**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 86 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 86** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 19, 2000 roll call on **HB 86** - Appendix.)

HB 86 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 86** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 87 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 87** be passed.

On the roll call the vote was: **Yeas 92, Nays 3**. (See January 19, 2000 roll call on **HB 87** - Appendix.)

HB 87 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 87** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 107 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 107** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 19, 2000 roll call on **HB 107** - Appendix.)

HB 107 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 107** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 109 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 109** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 19, 2000 roll call on **HB 109** - Appendix.)

HB 109 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 109** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 122, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 122** be passed. Agreed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 19, 2000 roll call on **HB 122** - Appendix.)

HB 122 was passed.

Representative Riggs moved the adoption of Committee Amendment No. 1 Title to **HB 122**. Agreed; and the title was agreed to.

Representative Riggs moved that the vote by which **HB 122**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 129 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HB 129** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 19, 2000 roll call on **HB 129** - Appendix.)

HB 129 was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 129** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 147** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 19, 2000 roll call on **HB 147** - Appendix.)

HB 147 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 147** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 164 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 164** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See January 19, 2000 roll call on **HB 164** - Appendix.)

HB 164 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 164** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of the Committee Substitute No. 1 to **HB 229**. Agreed.

Representative J. Turner moved that **HB 229**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 88, Nays 10.** (See January 19, 2000 roll call on **HB 229** - Appendix.)

HB 229, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 229**, by way of Committee Substitute was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 342**.

Representative Stumbo moved that **HCR 44** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that **HB 373** be reassigned to the Committee on Education. Agreed.

Introduction of Bills and Resolutions

HB 399, by Representative Callahan: AN ACT relating to free postsecondary tuition for disabled law enforcement officers, firefighters, and volunteer firefighters.

HB 400, by Representative Barrows: AN ACT relating to trusts and estates.

HB 401, by Representative Barrows: AN ACT adopting the Uniform Prudent Investor Act and making changes incidental thereto.

HB 402, by Representative Barrows: AN ACT relating to property.

HB 403, by Representative Barrows: AN ACT adopting the Uniform Principal and Income Act.

HB 404, by Representative Gooch: AN ACT relating to training and education of coal miners.

HB 405, by Representatives Nunn, Callahan, J. Turner, Ausmus, Upchurch, Colter, and Scott: AN ACT relating to emergency medical services and making an appropriation therefor.

HB 406, by Representatives Heleringer and Jordan: AN ACT relating to veterans' nursing homes.

HB 407, by Representative Gooch: AN ACT relating to oil and gas.

HB 408, by Representatives Jenkins, Johns, Burch, Riggs, Nesler, Vincent, Jordan, Miller, Horlander, Marzian, Yonts, Hoffman, and Cornett: AN ACT relating to workers' compensation.

HR 52, by Representative Nunn: A RESOLUTION supporting the Kentucky Tartan.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Local Government: **HB 314**

Motions, Petitions, and Communications (Continued)

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 69**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Coleman moved that he be recorded as voting "yea" on **HB 69**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that his vote be changed from "nay" to "yea" on **HB 232**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 107**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 193**, by Representative Haydon:

On page 6, line 3, by deleting "assisted department employees" and inserting "were directly involved" in its place;

On page 6, line 8, after the word "file", by inserting the words "and shall inform state agencies of the legal requirements concerning lease certification on an annual basis".

Floor Amendment No. 1 to **HB 188**, by Representative Nunn:

On page 1, line 17, after "chapter.", by deleting the remainder of line 17; and deleting lines 18 and 19 in their entirety.

Floor Amendment No. 1 Title to the Committee Substitute **HJR 5**, by Representative Hoffman:

by amending the title to read as follows: "A JOINT RESOLUTION expressing support for the construction of a National World War II Memorial in Washington, D.C. to honor United States and Kentucky citizens who served in the Armed Forces and those who died during World War II."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 9: Representatives Bratcher, DeWeese
HB 15: Representative Ratliff
HB 70: Representative Marcotte
HB 100: Representatives Colter, McKee
HB 144: Representatives Colter, McKee
HB 149: Representative Colter
HB 201: Representative Baugh
HB 210: Representative Vincent
HB 221: Representative Feeley
HB 236: Representatives Cox, Fischer, Gooch, Gray, Miller, Scott, Webb
HB 238: Representative Jenkins
HB 250: Representative Kerr
HB 255: Representatives Callahan, P. Clark, Hoffman, Jenkins, Ratliff
HB 258: Representatives P. Clark, Thomas
HB 267: Representatives A. Arnold, Barrows
HB 273: Representatives C. Belcher, Palumbo, Treesh
HB 274: Representative Jordan
HB 305: Representative Napier
HB 328: Representative Wayne
HB 347: Representatives Scott, Treesh, Webb
HB 377: Representative Thomas
HB 388: Representative Ballard

The following members filed requests to have their names withdrawn as co-sponsors:

HB 390: Representatives Bratcher, Crimm

Announcements

The following meeting was announced:

Local Government: January 20, 2000, 9:00 a.m.

The following meeting was canceled:

Economic Development: January 20, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 20, 2000.

On the roll call the vote was **Yeas 80**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Bruce, Buckingham, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Collins, Colter, Cornett, Cox, Crenshaw, Crimm, Damron, DeWeese, Draud, Fischer, Ford, Geveden, Gooch, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, McKee, Miller, Moberly, Nesler, Nunn, Palmer, Polston, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Siler, Simpson, Sims, Stacy, Stumbo, Thomas, Thompson, Treesh, J. Turner, Upchurch, Vincent, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 6**--Crall, Feeley, Hoover, Stewart, Tapp, Walton.

The motion to adjourn was adopted.

JANUARY 20, 2000
TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Chris Platt, High Street Baptist Church, Somerset.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 19, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 1, SB 24, SB 26, SB 28, SB 34, SB 44, and SCR 4.** (Time: 2:10 p.m.)

Representative Nunn moved that the rules be suspended to grant floor privileges to special guest and to act upon a Resolution. Agreed.

Representative Nunn moved the adoption of the following **HR 52**:

HR 52, A RESOLUTION supporting the Kentucky Tartan.

WHEREAS, Senate Resolution 155 of the 105th United States Congress designated April 6 of each year as "National Tartan Day" to honor those Americans of Scottish descent who played an integral role in the founding of our great nation, and recognizing the achievements and contributions made by Scottish Americans in the fields of science, technology, medicine, government, politics, economics, architecture, literature, media, and visual and performing arts; and

WHEREAS, in 2001, the first year of the new millennium, Kentucky will host the International Highland Games at Glasgow, Kentucky; thus, it is appropriate and fitting that Kentucky have an official Kentucky Tartan that can be worn with pride and honor, and that represents the many early settlers and trailblazers of this great Commonwealth that were of American Scottish descent; and

WHEREAS, Kentucky is bounded on the north by the Ohio River and on the west by the Mississippi River, and between these boundaries are two of the largest man-made lakes in the world, Kentucky Lake and Lake Barkley, and the blue water of these rivers, lakes, and other streams is represented by the blue in the Kentucky Tartan; and

WHEREAS, Kentucky was the birthplace of both presidents in the Civil War, Abraham Lincoln, born in Hodgenville in Larue County, and Jefferson Davis, born near Fairview in Christian County, and the Kentucky Tartan's blue and gray represents the brave soldiers who fought during the Civil War; and

WHEREAS, the green and bluegreen in the Tartan represents Kentucky's bluegrass where magnificent thoroughbreds graze and frolic among the few that are training for the Kentucky Derby which is held each year on the first Saturday of May; and

WHEREAS, Kentucky is located in the geographic area known as the Bible Belt; many brave and courageous Kentuckians of American Scottish descent fought and died for religious freedom and independence, and white in the Kentucky Tartan represents their purity, goodness, bravery and valor; and

WHEREAS, the official state bird is the Kentucky Cardinal, and red in the Tartan represents the precious blood that was shed by many American Scottish citizens of this great Commonwealth in the defense of freedom; and

WHEREAS, the Tartan's bright yellow represents the Goldenrod, Kentucky's state flower; and the black "window pane check" in the Tartan represents the Commonwealth's coal and oil resources;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud to endorse the Kentucky Tartan and deems our great Commonwealth fortunate to host the International Highland Games in Glasgow, Kentucky, in the year 2001. The participants in these Scottish

games will receive the outpouring of Kentucky hospitality that has always been indicative of the Bluegrass State.

Section 2. When the House of Representatives adjourns on January 20, 2000, it does so in strong support of the endorsement of the Kentucky Tartan.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to The Scottish Coalition, P.O. Box 1307, North Riverside, Illinois 60546.

There being no objection **HR 52** was adopted.

Introduction of Bills and Resolutions

HB 409, by Representative Hoffman: AN ACT relating to locksmiths and locks.

HB 410, by Representative Richards: AN ACT relating to crimes and punishment.

HB 411, by Representative Draud: AN ACT relating to estheticians.

HB 412, by Representatives Walton, Fischer, Marcotte, and Kerr: AN ACT relating to sanitation districts.

HB 413, by Representative DeWeese: AN ACT relating to precinct election officers.

HB 414, by Representative Gooch: AN ACT relating to coal mine safety.

HB 415, by Representative Gooch: AN ACT relating to insurance.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 395**

Banking and Insurance: **HB 396**

Education: **HB 399**

Health and Welfare: **HB 405**

Judiciary: **HB 400, HB 401, HB 402, HB 403**

Labor and Industry: **HB 408**

Licensing and Occupations: **HB 393**

Local Government: **HB 397**

Natural Resources and Environment: **HB 404, HB 407**

Seniors, Military Affairs, and Public Safety: **HB 406, SJR 2**

State Government: **HB 392, SB 25**

Transportation: **HB 394, HB 398**

House Floor: **HR 52**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 310**

Report of Committees

The Committee on Local Government reported **HB 150, HB 253, and HB 257** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 150, AN ACT relating to county and regional infrastructure development for economic development purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly in enacting Sections 1 to 4 of this Act to provide a system of infrastructure development to maintain economic growth in the Commonwealth and to provide a method of setting priorities to aid the state planning functions specified in KRS Chapter 147. This is intended to be done with the cooperative efforts of area development districts assisting any state agency as may be feasible.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context otherwise requires:

- (1) "State agency" means all offices and cabinets of state government as designated by KRS 12.020.
- (2) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.
- (3) "City" means any municipality created and established by the laws of the Commonwealth.
- (4) "Local government" means any city, county, charter county, urban-county, or special district as created by the laws of the Commonwealth.
- (5) "Special district" means any agency, authority, or political subdivision of the state that exercises less than statewide jurisdiction and that is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the state except a city, a county, or a school district.
- (6) "Area development district" means a special district created under KRS 147A.050.
- (7) "Infrastructure" means, but is not limited to, water treatment and water delivery systems, sewage systems, public buildings, publicly owned facilities such as recreation parks or landfills, electronic systems of communication used by public agencies, and transportation systems of all modes. "Infrastructure" as used herein does not mean power delivery systems, health planning and delivery systems, any systems operated by a school district, or, except for the purposes of public sector communications planning, commercial communications systems.
- (8) "Infrastructure development plan" means any written proposal by the state or a local government that involves infrastructure as defined in this section. A plan may be a single document or a series of documents that may have separate or component parts and may cover varying periods of time as designated by the Governor or any state agency.

SECTION 3. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the direction of the Governor or any state agency, each area development district shall be responsible for the development of a regional infrastructure development plan that shall include, at a minimum, an assessment of goals and objectives, a review of needs and assets, and a recommended strategy with priorities. These plans shall be reviewed and, if necessary, amended not less than every two (2) years. These plans may cover a period of time as determined by the Governor or the directing state agency. Unless otherwise directed by the Governor or the affected state agency, these plans are to be completed biennially by April 1st, beginning in 2001. A copy of each plan shall be delivered to the Governor, directing state agency, if applicable, and the Legislative Research Commission for distribution to the appropriate state agencies and committees of the General Assembly.
- (2) It shall be the duty of each area development district to:
 - (a) Assist the local governments in each county of each area development district to form and maintain an infrastructure planning committee to make recommendations on goals, objectives, strategy, and priorities of the infrastructure needs within their jurisdiction. The committee shall include a representative of county government to be appointed by the county judge/executive. The committee shall also include a representative of each classification of city government that exists within the county to be selected collectively by the mayors of each classification of city government existing within the county. In addition, the committee may also include representatives of planning commissions established within the county, chambers of commerce or industrial development boards, public or special service districts, or other organizations or individual citizens having interest in the economic future of the community. The final number and composition of members of the infrastructure planning committee shall be determined and appointed jointly by the county judge/executive and the mayor of the city having the highest municipal classification within the county. Infrastructure planning committees shall consist of no less than eight (8) nor more than fifteen (15) members. Within thirty (30) days of the effective date of this Act, the county judge/executive and the mayor of the city having the highest municipal classification within the county shall appoint the members of the infrastructure planning committee. Within forty-five (45) days of the appointment of the members of the infrastructure planning committee, the county judge/executive, in consultation with the mayor of the city having the highest municipal classification within the county, shall call the organizational meeting of the infrastructure planning committee. At that time, the committee shall adopt its own rules of procedure and operation that may include the formation of subcommittees for specific elements of infrastructure development plans. The committee shall also elect a chair from its membership to serve for a period not to exceed one (1) year. Any member may serve additional terms as chair but no term may be immediately consecutive;

- (b) Subject to the allocation of state funds from the Finance and Administration Cabinet or other appropriate cabinet, form and maintain an advisory regional development council within one hundred twenty (120) days of the effective date of this Act that shall be composed of one (1) county representative and one (1) city representative chosen from the membership of the county's infrastructure planning committee, and others as the area development district's board of directors may require. The regional development council shall hold an organizational meeting within thirty (30) days of its formation. At that time, the council shall adopt its own rules of procedure and operation. The council shall also elect a chair from its membership to serve for a period not to exceed one (1) year. Any member may serve additional terms. All meetings and records of the regional development council shall be held and maintained in compliance with the open meetings and records requirements of KRS 61.805 to 61.884. The regional development council shall biennially provide to the area development district board of directors an assessment of goals and objectives, a review of needs and assets, and a recommended strategy with priorities. The board of directors shall use these recommendations to compile the regional infrastructure development plan to be submitted to the Governor, affected state agencies, and the Legislative Research Commission; and
- (c) Maintain the minutes and all records of the regional development council including copies of all plans developed under this process.

SECTION 4. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) As provided in KRS 147.070 to 147.100, the Governor and state agencies may utilize any regional infrastructure development plan submitted by the area development districts in developing any state development plans. The Governor and state agencies shall establish a funding level adequate to support any regional infrastructure plan developed by the area development districts at the request of the Governor or state agencies
- (2) Every state agency and program that licenses, permits, regulates, or otherwise sanctions activities by government entities and programs related to infrastructure development is expressly authorized and required to consider and determine whether a government regulatory decision is consistent with the state and regional infrastructure development plans.

HB 253, AN ACT relating to city audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.040 is amended to read as follows:

- (1) Each city of the first through fifth class shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with subsection (4)(f) of this section, each city shall forward three (3) copies of the audit report to the Kentucky Department for Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (2) Except as provided in subsection (3) of this section, each city of the sixth class shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with subsection (4)(f) of this section, each sixth class city shall forward three (3) copies of the audit report to the Kentucky Department for Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, each sixth class city shall prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department for Local Government. The department shall forward one (1) copy of the financial statement to the Legislative Research Commission.
- (3) Any city of the sixth class, which for any fiscal year receives and expends, from all sources and for all purposes, less than ~~seventy-five thousand dollars (\$75,000)~~ ~~twenty-five thousand dollars (\$25,000)~~, and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department for Local Government for information purposes. The department shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (4) Each city required by this section to conduct an annual or biannual audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:
- (a) The auditor be employed to examine the general purpose financial statements of all governmental, proprietary, and

fiduciary funds of the city;

- (b) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended;
 - (c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;
 - (d) The auditor prepare a typewritten or printed report embodying the general purpose financial statements and his opinion and statements relating to those statements;
 - (e) The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;
 - (f) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and
 - (g) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.
- (5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.
- (6) Upon completion of an audit, each city may elect to publish the auditor's report in accordance with subsection (7) of this section, or publish a financial statement in accordance with subsection (8) of this section. Notwithstanding the election of subsection (7) or (8) of this section, the city shall, within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided a statement.
- (7) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the city council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures, and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses, and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424. The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at city hall and are available for public inspection during normal business hours. The advertisement shall also contain a statement that any citizen may obtain from city hall a copy of the complete auditor's report, including financial statements and supplemental information, for his personal use. The statement shall notify citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty five cents (\$0.25) per page. In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of the statement.
- (8) If the city, other than a city of the first or second class or urban-county government, elects to publish the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within sixty (60) days after the completion of the audit, publish the statement in accordance with KRS Chapter 424.
- (9) Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.
- (10) Any person who violates any provision of this section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

HB 257, AN ACT changing the classification of the City of Union, in Boone County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Union, in Boone County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Union, in Boone County, is transferred from the sixth to the fifth class of cities.

The Committee on Banking and Insurance reported **HB 18**, with Committee Substitute attached thereto, and **HB 342** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 18, AN ACT relating to insurance agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-270 is amended to read as follows:

- (1) Each insurer appointing an agent in this state shall file with the commissioner the appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and submit the license fee with the license application and the appointment fee with every appointment thereafter, or license fee in the case of limited licenses, as specified in KRS 304.4-010.
- (2) *An insurance agent shall not claim to be representative of, authorized or appointed agent of, or other term implying a contractual relationship with a particular insurer and accept applications for an insurer unless the insurance agent becomes an appointed agent of that insurer pursuant to this section. The following are the appointing insurer's requirements for making appointment of a licensed insurance agent.*
 - (a) *The insurer shall, no later than fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted by a licensed insurance agent, whichever is earlier, file with the commissioner a written notice of appointment on a form prescribed by the commissioner.*
 - (b) *If there is no executed agency contract, the insurer shall mail to the licensed insurance agent, no later than the same fifteen (15) day period specified in paragraph (a) of this subsection, a copy of the notice of appointment form filed with the commissioner. If the licensed insurance agent does not receive from the insurer acknowledgment of the appointment within thirty (30) days from the date the first insurance application is submitted to the insurer, then the insurance agent shall immediately discontinue acting as an insurance agent on behalf of that insurer until acknowledgment is received or agency contract is executed.*
 - (c) *Upon receipt of the notice of appointment, the commissioner shall verify within five (5) working days that the insurance agent is eligible for appointment. If the insurance agent is determined to be ineligible for appointment, the department shall notify the insurer within five (5) days of determination.*
- (3) Subject to continuation by the insurer as provided in subsection ~~(4)~~~~(3)~~ of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.
- ~~(4)~~~~(3)~~ Biennially, before January 31, the department shall distribute to each insurer a listing of the names and addresses of that insurer's agents whose appointment, or licenses in the case of limited licenses, were in effect during the preceding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently appointed, and subject to the fees specified under KRS 304.4-010. On or before March 31, each insurer shall submit the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010, for each appointment not terminated on or prior to December 31 of the preceding calendar year. Any appointment or license not expressly terminated shall continue, unless otherwise terminated, canceled, suspended, or revoked by the department of insurance.

Section 2. KRS 304.9-080 is amended to read as follows:

- (1) No person shall in this state be, act as, or hold himself out as an agent, solicitor, consultant, or adjuster unless then licensed as an agent, solicitor, consultant, or adjuster respectively.
- (2) No agent, or solicitor shall solicit or take applications for, procure or place for others any kind of insurance as to which he is not then licensed. No consultant shall act as such with respect to any kind of insurance as to which he is not then licensed as a consultant.
- (3) A consultant license must cover either or both of the following categories, as selected by the licensee:
 - (a) General lines;
 - (b) Life and health.

A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.
- (4) No person licensed as a consultant shall act as a consultant until he has filed with the commissioner a bond or insurance as prescribed in KRS 304.9-330.
- (5) Except as provided in KRS 304.9-410 *and subsection (2) of Section 1 of this Act*, no agent shall place, and no insurer

shall accept, any insurance with any insurer as to which he does not then hold a license and appointment as agent under this subtitle.

- (6) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

The Committee Substitute No. 1 to **HB 18** is as follows:

HB 18, AN ACT relating to insurance agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-270 is amended to read as follows:

- (1) Each insurer appointing an agent in this state shall obtain approval of the appointment from the commissioner by filing [file] with the commissioner the notice of appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and submit the license fee with the license application and the appointment fee with every appointment thereafter, or license fee in the case of limited licenses, as specified in KRS 304.4-010.
- (2) No agent shall claim to be an agent or representative of, or in any way imply a contractual relationship with, a particular insurer, or place applications for insurance with an insurer unless the agent becomes an appointed agent of that insurer and the agent's appointment has been approved by the commissioner.
- (3) An agent may act as a representative of and place insurance with an insurer without first obtaining approval of the appointment by the commissioner for a period of thirty (30) days from the date the first insurance application is executed by the agent subject to the following criteria:
 - (a) The agent has filed with the commissioner, and thereafter kept in force, evidence of financial responsibility in the sum of not less than one million dollars (\$1,000,000) per occurrence, and the sum of two million dollars (\$2,000,000) in the aggregate, for all such occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. Such a policy, bond, deposit, or combination shall not be terminated unless at least thirty (30) days' prior written notice is given to the licensee and the commissioner.
 - (b) If the agent does not receive from the insurer acknowledgment that the agent's appointment has been approved by the commissioner within thirty (30) days from the date the first insurance application is executed, the agent shall immediately discontinue acting as an agent on behalf of the insurer until acknowledgment is received.
- (4) (a) The insurer shall, no later than forty-five (45) days from the date the agency contract is executed or the first insurance application is submitted by an agent, whichever is earlier, file with the commissioner a written notice of appointment on a form prescribed by the commissioner.
 - (b) If there is no executed agency contract, the insurer shall also mail to the agent, within the same forty-five (45) day period specified in paragraph (a) of this subsection, a copy of the notice of appointment form filed with the commissioner.
- (5) Within fifteen (15) days of receipt of the notice of appointment, the commissioner shall determine and notify the insurer whether the agent is eligible for appointment. If the agent's license is in good standing and no other grounds exist to deny the appointment, the commissioner shall approve the appointment.
- (6) Subject to continuation by the insurer as provided in subsection (4) [(3)] of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.
- (7) [(3)] Biennially, before January 31, the department shall distribute to each insurer a listing of the names and addresses of that insurer's agents whose appointment, or licenses in the case of limited licenses, were in effect during the preceding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently appointed, and subject to the fees specified under KRS 304.4-010. On or before March 31, each insurer shall submit the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010, for each appointment not terminated on or prior to December 31 of the preceding calendar year. Any appointment or license not expressly terminated shall continue, unless otherwise terminated, canceled, suspended, or revoked by the department of insurance.

Section 2. KRS 304.9-080 is amended to read as follows:

- (1) No person shall in this state be, act as, or hold himself out as an agent, solicitor, consultant, or adjuster unless then licensed as an agent, solicitor, consultant, or adjuster respectively.
- (2) No agent, or solicitor shall solicit or take applications for, procure or place for others any kind of insurance as to which he is not then licensed. No consultant shall act as such with respect to any kind of insurance as to which he is not then

licensed as a consultant.

- (3) A consultant license must cover either or both of the following categories, as selected by the licensee:
 - (a) General lines;
 - (b) Life and health.
 A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.
- (4) No person licensed as a consultant shall act as a consultant until he has filed with the commissioner a bond or insurance as prescribed in KRS 304.9-330.
- (5) Except as provided in KRS 304.9-410 *and subsection (3) of Section 1 of this Act*, no agent shall place, and no insurer shall accept, any insurance with any insurer as to which he does not then hold a license and appointment as agent under this subtitle.
- (6) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

HB 342, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *A domestic mutual insurer may convert to a stock insurer by amendment of its articles of incorporation and upon compliance with the requirements of Sections 1 to 14 of this Act and the applicable requirements of this subtitle and Subtitle 3 of this chapter.*
- (2) *A domestic mutual insurer shall only convert to a stock insurer in accordance with a plan of conversion approved by the commissioner.*

SECTION 2. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act, unless the context requires otherwise:

- (1) *"Converting mutual" means a domestic mutual insurer that adopts a plan of conversion under Section 3 of this Act that will result in the insurer converting into a domestic stock insurer.*
 - (2) *"Eligible member" means:*
 - (a) *Any person who is a member of the converting mutual on the date the converting mutual's board of directors adopts a resolution proposing a plan of conversion;*
 - (b) *Any person who has been a member of the converting mutual within the last three (3) years prior to the date the converting mutual's board of directors adopts a resolution proposing a plan of conversion; and*
 - (c) *Any person who is a certificate holder under a group policy if the person meets the condition in paragraph (a) or (b) of this subsection and inclusion of the certificate holder as an eligible member is necessary for a fair and equitable distribution.*
 - (3) *"Former mutual" means the domestic stock insurer resulting from the conversion of a converting mutual to a stock insurer pursuant to a plan of conversion in accordance with Sections 1 to 14 of this Act.*
 - (4) *"Membership interests" means:*
 - (a) *The voting rights of members of a domestic mutual insurer as provided by law and by the insurer's articles of incorporation and bylaws; and*
 - (b) *The rights of members of a domestic mutual insurer to receive cash, stock, or other consideration in the event of a conversion to a stock insurer under Sections 1 to 14 of this Act or a dissolution under KRS 304.24-430.*
 - (5) *"Plan of conversion" means the plan of conversion described in Section 3 of this Act and includes the proposed amendment to the converting mutual's articles of incorporation, unless the context requires otherwise.*
- SECTION 3. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:
- (1) *The board of directors of the converting mutual shall adopt a resolution proposing the amendment of its articles of incorporation in accordance with KRS 304.24-080 and proposing a plan of conversion.*
 - (2) *The plan of conversion shall:*
 - (a) *Describe the manner in which the proposed conversion shall occur and the insurer and any other business entity that will result from or be directly affected by the conversion, including the former mutual and any affiliate;*
 - (b) *Provide that the membership interests in the converting mutual shall be extinguished as of the effective date of the conversion;*
 - (c) *Require the fair and equitable distribution of aggregate consideration to the eligible members, upon the extinguishing of their membership interests, which shall be equal to the fair value of the converting mutual as*

determined under a fair formula:

1. Describe the manner in which the fair value of the converting mutual shall be determined or established;
2. Describe the form or forms of consideration that shall be distributed to the eligible members; and
3. Specify relevant classes, categories, or groups of eligible members, and describe the method or formula that shall be used for the equitable allocation of the aggregate consideration among the eligible members;
- (d) Provide for the determination and preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends that shall be implemented through establishment of a closed block or other method acceptable to the commissioner in compliance with Sections 1 to 14 of this Act;
- (e) Specify the effective date of the plan of conversion and distributions to eligible members; and
- (f) Include all other provisions that are necessary for, or material to, the implementation of the conversion.
- (3) The plan of conversion may include any other provisions that the converting mutual deems necessary or reasonable.

SECTION 4. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The converting mutual shall file with the commissioner an application for approval of the plan of conversion.
- (2) The application shall consist of the following:
 - (a) The plan of conversion;
 - (b) A certificate of the secretary of the converting mutual regarding the adoption of the plan of conversion;
 - (c) A statement of the reasons for the proposed conversion and why it is in the best interests of the converting mutual and its eligible members, including an analysis of the risks and benefits to the converting mutual and its members and a comparison of the risks and benefits of reasonable alternatives to a conversion;
 - (d) A five (5) year business plan of the former mutual, including five (5) year financial projections, detailed descriptive narrative, and all relevant assumptions;
 - (e) Any plans or proposals that the former mutual or any affiliate company may have to raise additional capital through the issuance of stock or otherwise; and any other plans that the former mutual or any affiliate company may have to sell or otherwise issue stock to any person, including the adoption of any employee compensation or benefit plan under which stock may be issued;
 - (f) Any plans or proposals that the former mutual or any affiliate company may have to liquidate or dissolve any company, to sell any material assets, or to merge or consolidate with any person, or to make any other material change in investment policy, business, corporate structure, or management;
 - (g) Any plans or arrangement for a delayed distribution of consideration to eligible members, or restrictions on sale or transfer of stock or other securities;
 - (h) A plan of operation for any closed block established for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends;
 - (i) Copies of the current articles of incorporation and bylaws of the converting mutual;
 - (j) Copies of any proposed articles of incorporation and bylaws of the former mutual;
 - (k) A list of individuals who are or have been selected to become directors or officers of the former mutual and of any affiliate, or the individuals who perform or will perform duties customarily performed by a director or officer, including the following information:
 1. The individual's principal occupation;
 2. All offices and positions the individual has held in the preceding five (5) years;
 3. Any criminal convictions of the individual;
 4. Information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven (7) years;
 5. Information concerning the supervision, rehabilitation, or liquidation of any insurer or the bankruptcy of any corporation or other entity of which the individual was an officer or director;
 6. Information concerning any state or federal securities law allegations against the individual that resulted in a determination that the individual violated the state or federal securities law, a plea of nolo contendere, or a consent decree;
 7. Information concerning the revocation of any state or federal license issued to the individual; and
 8. Information as to whether the individual was refused a fidelity or other bond during the previous ten

(10) years.

- (l) A fairness opinion addressed to the board of directors of the converting mutual from a qualified independent financial advisor, that the provision of stock, cash, policy benefits, or other forms of consideration upon extinguishing the converting mutual's membership interests under the plan of conversion, is fair and equitable to the eligible members, as a group, from a financial point of view;
 - (m) An actuarial opinion and supporting memorandum;
 - (n) A description of the plans of the former mutual or its affiliates to assure that an active trading market for any stock or other securities distributed to eligible members will develop within a reasonable amount of time after the effective date of the plan of conversion and that eligible members who receive stock or other securities will be able to sell their stock or other securities, subject to any delayed distribution or transfer restrictions, at reasonable cost and effort. These plans may consist of:
 - 1. Appointing a registrar and transfer agent for the stock or other securities;
 - 2. Making filings, applications, or registrations for the stock or other securities with the Federal Securities and Exchange Commission and with appropriate state securities regulators;
 - 3. Listing the stock or other securities on a national or other securities exchange;
 - 4. Facilitating coverage of the stock or other securities by research analysts and securing the commitment of at least one (1) market maker to make a market in the stock or other securities;
 - 5. Conducting an underwritten public offering of the same class of stock or other securities, promptly following the effective date of the plan of conversion, in order to facilitate the development of a public market; and
 - 6. Making available a procedure for eligible members holding small numbers or amounts of stock or other securities to sell their stock or other securities to the former mutual or an affiliate at market value without the payment of brokerage commissions or similar fees, or to sell their stock or other securities in the market through a broker with discounted brokerage commissions or fees;
 - (o) Any additional information, documents, or materials that the converting mutual deems necessary or reasonable; and
 - (p) Any other additional information, documents, or materials that the commissioner may request in writing.
- (3) (a) The actuarial opinion shall address whether:
- 1. The methodology or formulas used to determine the total aggregate consideration to be distributed to eligible members is reasonable and appropriate;
 - 2. The methodology or formulas used to allocate consideration among the eligible members is reasonable and appropriate;
 - 3. The financial condition of the former mutual will not be adversely diminished; and
 - 4. If a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of the policy dividends, the plan of operation, and the sufficiency of the assets allocated to the closed block, is reasonable.
- (b) The actuarial opinion shall be provided by a qualified and independent actuary who is a member of the American Academy of Actuaries. The opinion shall be given in accordance with professional standards and practices generally accepted by the actuarial profession and those other factors as the actuary believes are reasonable and appropriate in the exercise of professional judgment at the time the opinion is given.
- (c) The opinion shall be supported by a memorandum of the actuary, describing the calculations made and the assumptions used in the calculations.

SECTION 5. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner shall have ninety (90) days to review the plan of conversion after it is filed. Upon completion of the review, the commissioner shall schedule a public hearing on the plan of conversion.
- (2) The commissioner shall hold a hearing upon the plan of conversion in accordance with KRS 304.2-310.
- (3) The converting insurer shall present evidence that the plan of conversion complies with Sections 1 to 14 of this Act.
- (4) Persons wishing to make comments and submit information may submit written statements prior to the public hearing and may appear and be heard at the hearing. These comments shall be part of the record and shall be considered by the commissioner before issuing an order on the plan of conversion.
- (5) At least forty-five (45) days prior to the hearing date, the converting mutual shall provide information regarding the hearing to the eligible members and its other policyholders and certificate holders. The information provided shall include a brief statement of the subject of the hearing, the date, time, and location of the hearing, a description of members eligible to vote on the plan of conversion, and a statement indicating the location at which the public portion

of the application may be examined. This information shall be provided by mail or by other means approved by the commissioner.

- (6) Following the hearing, the commissioner shall, by order, approve, conditionally approve, or disapprove the plan of conversion. The commissioner may require, as a condition of approval of the plan of conversion, modification of the proposed plan of conversion. The insurer shall file the amendments required by the conditional approval within thirty (30) days of the date of the order. The commissioner may grant an extension for filing amendments for good cause shown. If the applicant does not timely file the required amendments, the plan of conversion shall be deemed disapproved.

SECTION 6. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner shall approve the plan of conversion if the commissioner finds, following the hearing, that the plan of conversion:
- (a) Complies with the provisions of this chapter and all other applicable laws;
 - (b) Is fair and equitable to the eligible members and the other policyholders of the converting mutual;
 - (c) Is actuarially reasonable and appropriate;
 - (d) Will not jeopardize the financial stability of the former mutual or prejudice the interest of its policyholders; and
 - (e) Provides that the former mutual shall be able to satisfy the requirements for issuance of a certificate of authority to write the kinds of insurance for which the converting mutual is presently authorized.
- (2) The commissioner shall, at the converting mutual's expense, hire accountants, actuaries, attorneys, financial advisors, investment bankers, and other experts as may be necessary to assist the commissioner in reviewing all matters under Sections 1 to 14 of this Act that are related to the plan of conversion and the application. The commissioner may at any time require the converting mutual to deposit an amount of money with the department in anticipation of expenses to be incurred by the commissioner under this subsection.
- (3) The commissioner may consider the effect of any action taken by the converting insurer within a three (3) year period immediately prior to the filing of the plan of conversion if the action taken by the insurer has a material effect on the fairness and equity of the plan of conversion.

SECTION 7. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The plan of conversion and the proposed amendment to the articles of incorporation of the converting mutual shall be submitted to a vote of the members of the converting mutual, as provided in this section and in KRS 304.24-095.
- (2) The meeting of members shall be held no later than ninety (90) days after the issuance of the commissioner's order of approval of the plan of conversion or after the filing of all amendments in compliance with the order of conditional approval of the plan of conversion.
- (3) The converting mutual shall give written notice of the right to vote on the plan of conversion to the members of the converting mutual entitled to vote. The notice shall be accompanied by explanatory information concerning the plan of conversion and may be accompanied by proxy solicitation materials. The notice and accompanying information and materials shall not be provided to the members until approved by the commissioner. The notice and accompanying materials shall include:
- (a) A brief statement of the subject of the meeting;
 - (b) The date, time, and location of the meeting;
 - (c) A description of the member's right to attend and participate in the meeting;
 - (d) A description of the nature and amount of consideration that will be provided to the eligible members upon completion of the conversion;
 - (e) If reasonably ascertainable by the converting mutual, a description of the form and amount or approximate amount of consideration to be provided to the particular member to whom the notice is addressed;
 - (f) A copy of the plan of conversion and summary of the plan; and
 - (g) A reference to the applicable statutory provisions.
- (4) The notice required by subsection (3) of this section shall achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.
- (5) The notice shall be mailed, or provided by some other method or methods as may be approved by the commissioner, not less than thirty (30) days before the date of the meeting of members to vote on the plan of conversion.
- (6) Only persons who are members of the converting mutual on both the date the converting mutual's board of directors adopts the resolution proposing the plan of conversion and the record date for the meeting established by the board of directors shall be entitled to vote on the plan of conversion and the proposed amendment to the articles of incorporation of the converting mutual. Each voting member shall be entitled to vote in accordance with KRS 304.24-210.

- (7) Notwithstanding KRS 304.24-210, a member may vote by proxy only if:
- (a) The proxy was solicited and obtained from the member for the express and sole purpose of voting on the plan of conversion, amendments to the articles of incorporation and bylaws, and any other matter materially related to the plan of conversion; and
 - (b) The proxy solicitation materials were provided to the commissioner prior to sending the materials to the members.
- (8) The plan of conversion and the proposed amendment to the converting mutual's articles of incorporation shall be approved by the members upon receiving the affirmative votes of at least two-thirds (2/3) of the members voting at the meeting in person or by proxy.

SECTION 8. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Upon the effective date of the plan of conversion:
- (a) The converting mutual shall be converted from a domestic mutual insurer to a domestic stock insurer, and the former mutual shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a stock insurer existing under this chapter;
 - (b) The membership interests of every member and policyholder of the converting mutual shall be extinguished and cease; and
 - (c) The rights of every policyholder, certificate holder, and other insured of the converting mutual under any contract of insurance shall continue in force in accordance with the terms, provisions, and conditions of the contract, including rights, if any, to dividends.
- (2) The former mutual shall be a continuation of the existence of the original converting mutual. The conversion in no way shall annul, modify, or change any of the original converting mutual's existing suits, rights, contracts, or liabilities. The former mutual shall be vested in all the rights, franchises, and interests of the converting mutual in and to every species of property without any deed or transfer, and the former mutual shall succeed to all the obligations and liabilities of the converting mutual and retain all rights and contracts existing prior to effectiveness of the conversion.

SECTION 9. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The total aggregate consideration to be distributed to the eligible members shall be determined under a fair formula. The total aggregate consideration shall not be less than the converting mutual's total surplus or surplus as regards policyholders; plus the value of all nonadmitted assets; plus a reasonable present equity in reserves, if any; minus any adjustments for contributed or borrowed surplus.
- (2) The consideration to be distributed to the eligible members shall be cash, stock, or other securities of the former mutual or of an affiliate, additional paid up insurance or annuity benefits, or any combination of these forms of consideration or other forms of consideration described in the plan of conversion and approved by the commissioner.
- (3) The form of consideration to be distributed to a class, category, or group of eligible members may differ from the form of consideration to be distributed to another class, category, or group of eligible members. The choice of the form of consideration may take into account such factors as the type of policies with respect to which the consideration is being distributed, the country or state of residence or tax status of the eligible members, the length of time that eligible members have been members of the converting mutual, or other appropriate factors or circumstances described in the plan of conversion.
- (4) Distribution of all or part of the consideration to some or all of the eligible members may be delayed, or restrictions on sale or transfer of any stock or other securities to be distributed to eligible members may be required, for a reasonable period of time following the effective date of the conversion. That period of time shall not exceed six (6) months, unless approved by the commissioner.

SECTION 10. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In determining whether the method or formula in the plan of conversion is fair and equitable, the commissioner may consider the following factors:

- (1) Voting rights;
- (2) Number of eligible members;
- (3) Length of membership in the converting mutual;
- (4) Premiums paid by members;
- (5) Policy limits;
- (6) Risk of line of insurance;
- (7) Sources of the proportionate contributions to historical surplus, based on such groupings, classification, historical information, assumptions, and projections as are actuarially sound and reasonable;

- (8) For a converting mutual that is a property and casualty company, the net earned premiums each eligible member has paid to the converting mutual, compared to the total net earned premiums paid by all eligible members, in each case during the period of time specified in the plan of conversion; and
- (9) Any other relevant factors the commissioner may deem appropriate.

SECTION 11. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) No dividend preservation provisions shall provide in any way or substitute for the distribution of consideration to eligible members upon extinguishing their membership interests.
- (2) Any dividend preservation provision may be limited to participating individual life insurance policies and participating individual annuity contracts in force or deemed to be in force by the plan of conversion on the effective date of the plan of conversion for which the converting mutual insurer has an experience-based dividend scale due, paid, or accrued by action of the board of directors of the converting mutual in the year in which the plan of reorganization is adopted, except that:
 - (a) Policies that would be included but for the fact that their recent issuance results in no dividends for an initial period, may be included;
 - (b) Policies that are in force as extended term insurance may be included; and
 - (c) Other categories of policies and benefits not described in this subsection may be included or excluded with approval of the commissioner.

SECTION 12. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of this section apply if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders.
- (2) The converting mutual shall prepare a written plan of operation for the closed block, consistent with the requirements of this section and the other applicable requirements of Sections 1 to 14 of this Act.
- (3) The closed block shall be operated for the exclusive benefit of policies and contracts included in it. No costs or expenses incurred in connection with the conversion shall be charged to the closed block.
- (4) The assets allocated to the closed block, together with the revenue from the closed block, shall be calculated to be reasonably sufficient to support the business in the closed block until the last policy in the closed block has terminated, including payment of claims and those expenses and taxes as are specified in the plan of conversion, and to provide for continuation of dividend scales in effect on the adoption date of the plan of conversion, if the experience underlying those scales continues and for appropriate adjustments in the scales if the experience changes.
- (5) The assets to a closed block shall be specified in the plan of operation and must consist of:
 - (a) A list of designated assets of the converting mutual's general account or specified segments, which list shall change periodically to reflect the acquisition and disposition of assets;
 - (b) A designated portion of each asset of the converting mutual's general account or specified segments thereof, which portion shall change periodically to reflect the cash flows of the closed block; or
 - (c) Assets designated by a combination of the methods described in paragraphs (a) and (b) of this subsection.
- (6) The plan of operation shall specify which of those methods of assignment of closed block assets is being used and shall set forth the methods by which the designations referred to in subsection (5) of this section are changed during the course of closed block operations.
- (7) The former mutual shall submit to the commissioner annual reports, in a form acceptable to the commissioner, that account for and describe the operations of the closed block; and as specified in the plan of operation provide for annual reviews of, and reports and opinions on, the closed block by an independent actuary.
- (8) The plan of operation shall provide for the conditions under which the former mutual may terminate the closed block.
- (9) The former mutual shall not distribute any residual assets of the closed block until the plan for distribution of the residual assets is approved by the commissioner.

SECTION 13. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Except as specifically provided in the plan of conversion, for a period of five (5) years following the effective date of the conversion, no person or persons acting in concert, other than the former mutual, any affiliate, any employee benefit plans, or trusts sponsored by the former mutual or affiliate, shall directly or indirectly offer to acquire or acquire in any manner the beneficial ownership of five percent (5%) or more of any class of a voting security of the former mutual or any affiliate company without the prior approval by the commissioner of a statement filed by that person with the commissioner. The statement shall contain the information required by subsection (2) of Section 15 of this Act and any other information required by the commissioner.

- (2) The commissioner shall not approve the acquisition if the commissioner finds that:
- (a) The requirements of subsection (4)(a) of Section 15 of this Act have not been satisfied;
 - (b) The acquisition will frustrate the fair and equitable plan of conversion as approved by the members and the commissioner;
 - (c) The acquisition or change of control will result in unjust enrichment of the acquiring persons to the detriment of the eligible members of the converting mutual; and
 - (d) The acquisition would not be in the best interest of the present and future policyholders of the former mutual, without regard to any interest of policyholders as shareholders of the former mutual or any affiliate company.
- (3) The requirements of this section shall be in addition and supplemental to any other filings or approvals required by this chapter or otherwise by law.

SECTION 14: A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

During the one (1) year period following the effective date of the plan of conversion, neither the former mutual nor any affiliate company shall sell or issue, or adopt any plan or benefit program providing for the sale or issuance of, any stock or other equity security except:

- (1) As disclosed in the approved plan of conversion; or
- (2) As otherwise approved by the commissioner, upon a finding that the stock transaction:
 - (a) Will not frustrate the plan of conversion as approved by the members and the commissioner; and
 - (b) Is not adverse to the best interests of the policyholders of the former mutual, without regard to any interests of policyholders as shareholders of the former mutual or any affiliate company.

Section 15. KRS 304.37-120 is amended to read as follows:

- (1) No person other than the issuer shall make a tender offer for, a request or invitation for tenders of, enter into any agreement to exchange securities, seek to acquire, or acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation, the person would, directly or indirectly, or by conversion, or by exercise of any right to acquire, be in control of the insurer. No person shall enter into an agreement to merge with or to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time of the offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of these securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner prescribed in this section.
 - (a) For purposes of this section a domestic insurer shall include any person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, the person shall file a preacquisition notification with the commissioner containing the information required in KRS 304.37-130(3)(a) thirty (30) days prior to the proposed effective date of the acquisition. The person who fails to file a preacquisition notification shall be subject to the penalty set out in KRS 304.99-151. For the purposes of this section, "person" shall not include any securities broker holding, in the usual and customary brokers function, less than twenty percent (20%) of the voting securities of an insurance company or of any person which controls an insurance company.
- (2) The statement to be filed with the commissioner under this section shall be made under oath or affirmation and shall contain the following information:
 - (a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) of this section is to be effected; and
 - 1. If the person is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years; or
 - 2. If the person is not an individual, a report of the nature of its business operations during the past five (5) years or for a lesser period that the person and any predecessors have been in existence, an informative description of the business intended to be done by the person and the person's subsidiaries, and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to these functions. The list shall include for each individual the information required by subparagraph 1. of this paragraph.
 - (b) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for merger or other acquisition of control, including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration; but if a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the

person filing the statement so requests.

- (c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each acquiring party, or for a lesser period that the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement.
 - (d) Any plans or proposals which each acquiring party may have to liquidate the insurer, to sell its assets, or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.
 - (e) The number of shares of any security referred to in subsection (1) of this section which the acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section, and a statement as to the method used to determine the fairness of the proposal.
 - (f) The amount of each class of any security referred to in subsection (1) of this section which is beneficially owned, or concerning any security referred to in subsection (1) of this section which there is a right to acquire beneficial ownership of by each acquiring party.
 - (g) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (1) of this section in which any acquiring party is involved, such as transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom these contracts, arrangements, or understandings have been entered into.
 - (h) A description of the purchase of any security referred to in subsection (1) of this section during the twelve (12) calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid.
 - (i) A description of any recommendations to purchase any security referred to in subsection (1) of this section made during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party.
 - (j) Copies of all tender offers for requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) of this section, and of additional soliciting material distributed which relates.
 - (k) The term of any agreement, contract, or understanding made with, or proposed to be made with any broker-dealer, as to solicitation of securities referred to in subsection (1) of this section for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to subsection (1) of this section.
 - (l) Any additional information as the commissioner may by regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.
 - (m) If the person required to file the statement referred to in subsection (1) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (a) to (l) of this subsection shall be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or other group, and each person who controls the partner or member. If any partner, member, or person is a corporation, or the person required to file the statement referred to in subsection (1) of this section is a corporation, the commissioner may require that the information called for by paragraphs (a) to (l) of this subsection shall be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of the corporation.
 - (n) If any material change occurs in the facts in the statement filed with the commissioner and sent to the insurer pursuant to this section, an amendment stating the change, with copies of all documents and other materials relevant to the change, shall be filed with the commissioner and sent to the insurer within two (2) business days after the person learns of the change.
- (3) If any offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section is proposed to be made by means of a registration statement under the Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) of this section may utilize those documents in furnishing the information required by the statement referred to in subsection (1) of this section.
- (4) (a) The commissioner shall approve any merger or other acquisition of control referred to in subsection (1) of this section unless, after a public hearing he finds that:
- 1. After the change of control, the domestic insurer referred to in subsection (1) of this section would not be able to satisfy the requirements for issuance of a certificate of authority to write the line or lines of insurance for which it is presently authorized;

2. The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in Kentucky or tend to create a monopoly. In applying the competitive standard in this paragraph:
 - a. The informational requirements of KRS 304.37-130(3)(a) and the standards of KRS 304.37-130(4)(b) shall apply;
 - b. The merger or other acquisition shall not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by KRS 304.37-130(4)(c) exist; and
 - c. The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;
 3. The financial condition of the acquiring party might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders;
 4. The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;
 5. The competence, experience, and integrity of persons who would control the operation of the insurer would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or
 6. The acquisition is likely to be hazardous or prejudicial to the insurance buying public.
- (b) The public hearing required by this section shall be conducted as directed in KRS Chapter 304.2.
- (c) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff that may be necessary to assist the commissioner in reviewing the proposed acquisition of control.
- (5) The provisions of this section shall not apply to:
- (a) Any transaction which is subject to the provisions of KRS 304.24-390, dealing with the merger or consolidation of a domestic insurer; or
 - (b) Any offer, request, invitation, agreement, or acquisition which the commissioner, by order, shall exempt from the section as not having been made or entered into for the purpose of and not having the effect of changing or influencing the control of, a domestic insurer, or not comprehended within the purposes of this section; **or**
 - (c) **Any acquisition of stock of a former mutual by an affiliate company that occurs in connection with the conversion of a mutual insurer to a stock insurer under Sections 1 to 14 of this Act, provided that no person acquires control of the parent company. For purposes of this paragraph, "former mutual" has the meaning provided in Section 2 of this Act.**
- (6) The following shall be violations of this section:
- (a) The failure to file any statement, amendment, or other material required to be filed pursuant to subsection (1) or (2) of this section; or
 - (b) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his approval.
- (7) The courts of this state shall have jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and over all actions involving such person arising out of violations of this section. Each person shall be deemed to have performed acts equivalent to and constituting an appointment by the person of the Secretary of State to be his true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of the violations of this section. Copies of all lawful process shall be served on the Secretary of State and transmitted to the person at his last known address by the Secretary of State in the same manner as service of process on foreign insurers.

Section 16. KRS 304.37-150 is amended to read as follows:

- (1) No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this ~~chapter~~_{subchapter} or of any rule, administrative regulation, or order issued by the commissioner may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding; but no action taken at the meeting shall be invalidated by the voting of the securities, unless the action would materially affect control of the insurer or unless the courts of this state have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this ~~chapter~~_{subchapter} or of any rule, administrative regulation, or order issued by the commissioner, the insurer or the commissioner may apply to the Circuit Court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of KRS 304.37-130 or

any other provision of this chapter, or any rule, administrative regulation, or order issued by the commissioner to enjoin the voting of any security so acquired, to void any vote of the security already cast at any meeting of shareholders, and for any other equitable relief as required by the nature of the case and the interest of the insurer's policyholders, creditors, shareholders, or the public.

- (2) In any case where a person has acquired or is proposing to acquire any voting securities in violation of this ~~chapter~~_{subtitle} or any rule, administrative regulation, or order issued by the commissioner, the Circuit Court for Franklin County or the Circuit Court for the county in which the insurer has its principal place of business may, upon notice the court deems appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by the person, and issue the appropriate order to effectuate the provisions of this subtitle.
- (3) Notwithstanding any other provisions of law, for the purposes of this ~~chapter~~_{subtitle} the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

Section 17. KRS 304.37-525 is amended to read as follows:

- (1) Sections 1 to 14 of this Act are~~KRS 304.24-380 is~~ not applicable to a reorganization or merger under KRS 304.37-505 and 304.37-510.
- (2) Sections 1 to 14 of this Act are~~KRS 304.24-380 is~~ applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company organized under Subtitle 24 of this chapter as if it were a mutual insurance company.

Section 18. Sections 1 to 14 of this Act may be cited as the Kentucky Insurer Demutualization Act.

Section 19. The following KRS section is repealed:

304.24-380 Converting mutual insurer.

The Committee on Agricultural and Small Business reported **HB 358** and **HCR 45** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 358, AN ACT relating to animal control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and KRS 258.990(3) and (4), unless the context requires otherwise:

- (1) "Department" means the Department of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Committee" means the advisory committee created by KRS 258.115;
- (4) "Dog" means any member of the canine family, six (6) months of age or over;
- (5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;
- (6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;
- (7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;
- (8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;
- (9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;
- (10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;
- (11) "Vicious dog" means any individual dog declared by a court to be a vicious dog;~~and~~
- (12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances;and
- (13) "Designated license facility" means any person, facility, or business designated by resolution of the fiscal court to collect license fees under Section 3 of this Act.

Section 2. KRS 258.119 is amended to read as follows:

- (1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unallotted or unencumbered

balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

- (2) Moneys from the fund shall be ~~allocated for distribution from the fund as follows:~~

~~(a) Fifty percent (50%) of the fund balance shall be allocated annually for distribution to eligible counties. Each eligible county shall receive an equal allotment from the fund. To be eligible for an annual allotment, a county shall have an established animal control and care program meeting the requirements provided in subsection (3) of this section, or an approved plan to establish an animal control and care program as provided in subsection (4) of this section; and~~

~~(b) Fifty percent (50%) of the fund balance shall be transferred annually to the Department of Agriculture. This money shall be~~ used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training dog wardens and animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this ~~subsection~~~~paragraph~~ may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

- (3) As used in this section, "animal control and care program" means a program in which the county:

- (a) Employs a dog warden or an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and
- (b) Maintains a dog pound or animal shelter, or contracts with an adjoining county, to provide services that:
 1. Segregate male and female animals in runs and holding areas;
 2. Provide separate runs or holding areas for ill or injured animals;
 3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit or scratched a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;
 4. Provide holding areas with protection from the weather, including heated quarters during cold weather;
 5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material or a minimum of three (3) inches of gravel;
 6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;
 7. Employ euthanasia methods recommended by the American Veterinary Medical Association; and
 8. Provide other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner.

- (4) ~~[To be eligible for moneys distributed under paragraph (a) of subsection (2) of this section, counties shall submit documentation to the Animal Control Advisory Board, on a form prescribed by the Department of Agriculture, of an established animal control and care program or an approved plan to establish an animal control and care program.]~~ Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

- (a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and
- (b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

- (5) To be eligible for any moneys distributed as grants to counties under ~~paragraph (b) of~~ subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of dog wardens or other personnel. Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

- (6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of this section.

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Section 3. KRS 258.135 is amended to read as follows:

- (1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden or designated license facility of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents (\$1.50) for each dog, except as provided in KRS 258.500. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens and designated license facilities shall be agents of the Commonwealth in the collection of the license fees ~~provided for herein~~, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens or designated license facilities shall be allowed to retain the sum of twenty-five cents (\$0.25) for each license. The balance of the license fee collected shall be paid to the department quarterly ~~on or before the fifteenth day of each next succeeding month~~ and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties.
- (2) Any county may choose to issue additional licenses in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year.

Section 4. KRS 258.185 is amended to read as follows:

Each dog warden shall keep a record of all dog and kennel licenses issued, including licenses issued by designated license facilities, and shall report to the department quarterly those ~~monthly his~~ license sales on a form prescribed and supplied by the department. Designated license facilities shall make quarterly reports to the dog warden in order for the warden to report to the department. The record maintained shall be a public record.

Section 5. KRS 258.215 is amended to read as follows:

- (1) Peace officers, dog wardens, or animal control officers shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, dog warden, or animal control officer, after diligent effort to do so, should fail to seize ~~the~~ such a dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any ~~such~~ dog which an officer, dog warden, or animal control officer seizes shall be impounded for five (5) ~~seven (7)~~ days, and if not claimed by the owner or sold in accordance with other provisions of this chapter, then ~~the~~ such dog may be destroyed in some humane manner.
- (2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if ~~a~~ such hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, ~~the~~ such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of ~~the~~ such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Section 6. The following KRS section is repealed:

258.121 Animal shelter trust fund -- Allocation of moneys.

Section 7. Any moneys remaining in the Animal Shelter Trust Fund on the effective date of this Act shall be transferred to the Animal Control and Care Fund created by Section 2 of this Act.

HCR 45, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of tobacco production or the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, such losses would cause failure of many farms and businesses, decreases in land values, the default of loans, and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems that threaten the tobacco industry and the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping to resolve these problems; and

WHEREAS, the tobacco industry and tobacco farmers remain in jeopardy because of threats to the program, increased imports, labor shortages, marginal prices, possible increases in excise taxes, and other problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized to help resolve the problems facing the tobacco industry and the tobacco program.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have

the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Judiciary reported **HB 124**, with Committee Substitute attached thereto, **HB 156**, and **HB 315** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 124, AN ACT relating to the preparation and filing of legal documents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner of the Department for Local Government shall create an advisory committee to establish and implement a uniform indexing system to be used by Kentucky county clerks. The committee shall consist of the following membership:
 - (a) Two (2) members appointed by the President Pro Tempore of the Senate;
 - (b) Two (2) members appointed by the Speaker of the House of Representatives; and
 - (c) Two (2) representative members from each of the following groups:
 1. Governor's Office;
 2. Kentucky County Clerks Association;
 3. Kentucky Bar Association;
 4. Kentucky Association of Realtors;
 5. Kentucky Bankers Association;
 6. Department for Libraries and Archives;
 7. Department of Information Systems; and
 8. Department for Local Government.
- (2) The members shall choose a chairman from among the membership of the committee.
- (3) The committee shall meet monthly for a period of six (6) months immediately after the effective date of this Act to establish and implement a uniform indexing system for the filing of legal documents to be used by all county clerks by January 1, 2002, and this system shall recognize the requirements included in Section 2 of this Act.
- (4) After implementation of the indexing system, the advisory committee may meet semiannually to review and make recommendations for any changes.
- (5) The Department for Local Government shall provide adequate funding and staff to meet the needs of the advisory committee.
- (6) The Department for Local Government shall take action to implement the recommendations by promulgating administrative regulations in compliance with KRS Chapter 13A.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Dark" means equal to or darker than step 8 on a Stouffer Opaque Sensitivity Guide or "gray scale."
 - (b) "Handwriting" means writing done by hand with a pen or pencil.
 - (c) "Nonessential information" includes information that does not affect the validity of a document, such as instructions, page numbers, form number, or other notations.
 - (d) "Printed" describes an image produced by a mechanical device, such as a printing press, typewriter, or computer printer.
- (2) County clerks shall follow a uniform record management process established in accordance with Section 1 of this Act that shall include all records, in addition to all property deeds and real estate transactions, under the following guidelines. Each instrument executed after the effective date of this Act and lodged for record in the office a county clerk shall:
 - (a) Consist of one (1) or more individual sheets measuring no more than eight and one-half (8 1/2) inches by fourteen (14) inches in size;
 - (b) Not be permanently bound;
 - (c) Not be a continuous form;
 - (d) For each page except the first page and the final page, have a minimum one (1) inch top, side, and bottom margin;
 - (e) For the first page, have a minimum:

1. Two (2) inch top margin;
2. One (1) inch bottom margin; and
3. One (1) inch side margins; and

(f) For the final page, have a minimum:

1. One (1) inch top margin;
2. Two (2) inch bottom margin; and
3. One (1) inch side margins.

- (3) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall follow the guidelines set forth in subsection (2) of this section except:
 - (a) A map;
 - (b) A plat;
 - (c) A drawing;
 - (d) A will; or
 - (e) An instrument whose size is mandated by federal law or regulation.
- (4) A map, plat, or drawing executed after the effective date of this Act and lodged in the office of a county clerk shall contain a three (3) inch by three (3) inch space at the bottom right corner.
- (5) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall have a print clarity as follows:
 - (a) They shall be printed with dark ink, on white paper that does not have background color, images, or writing.
 - (b) A printed character shall be crisp, clean, complete, and legible.
 - (c) A record or document shall not have superfluous decorations such as wax, ribbons, and gold seals.
- (6) All records or documents that are completed by handwriting, executed after the effective date of this Act and lodged in the office of a county clerk shall be written in dark ink. Blue ink is acceptable if it is dark when photographically or electronically reproduced.
- (7) A record or document executed after the effective date of this Act and lodged in the county clerk's office shall be printed on a minimum of twenty (20) pound weight paper.
- (8) A county clerk shall not be prohibited from filing a record or document that does not meet the requirements established by this section if the instrument has been created, certified, or accepted for filing or recording by the United States government or a government of a nation or state.

The Committee Substitute No. 1 to HB 124 is as follows:

HB 124, AN ACT relating to the preparation and filing of legal documents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner of the Department for Local Government shall create an advisory committee to establish and implement a uniform indexing system to be used by Kentucky county clerks. The committee shall consist of the following membership:
 - (a) Two (2) members appointed by the President of the Senate;
 - (b) Two (2) members appointed by the Speaker of the House of Representatives; and
 - (c) Two (2) representative members from each of the following groups:
 1. Governor's Office;
 2. Kentucky County Clerks Association;
 3. Kentucky Bar Association;
 4. Kentucky Association of Realtors;
 5. Kentucky Bankers Association;
 6. Department for Libraries and Archives;
 7. Department of Information Systems;
 8. Department for Local Government; and
 9. Administrative Office of the Courts.

- (2) The members shall choose a chairman from among the membership of the committee.
- (3) The committee shall meet monthly for a period of six (6) months immediately after the effective date of this Act to establish and implement a uniform indexing system for the filing of legal documents to be used by all county clerks by January 1, 2002, and this system shall recognize the requirements included in Section 2 of this Act.
- (4) After implementation of the indexing system, the advisory committee may meet semiannually to review and make recommendations for any changes.
- (5) The Department for Local Government shall provide adequate funding and staff to meet the needs of the advisory committee.
- (6) The Department for Local Government shall take action to implement the recommendations by promulgating administrative regulations in compliance with KRS Chapter 13A.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Dark" means equal to or darker than step 8 on a Stouffer Opaque Sensitivity Guide or "gray scale."
 - (b) "Handwriting" means writing done by hand with a pen or pencil.
 - (c) "Nonessential information" includes information that does not affect the validity of a document, such as instructions, page numbers, form number, or other notations.
 - (d) "Printed" describes an image produced by a mechanical device, such as a printing press, typewriter, or computer printer.
- (2) County clerks shall follow a uniform record management process established in accordance with Section 1 of this Act that shall include all records, in addition to all property deeds and real estate transactions, under the following guidelines. Each instrument executed after the effective date of this Act and lodged for record in the office a county clerk shall:
 - (a) Consist of one (1) or more individual sheets measuring no more than eight and one-half (8 1/2) inches by fourteen (14) inches in size;
 - (b) Not be permanently bound;
 - (c) Not be a continuous form;
 - (d) For each page except the first page and the final page, have a minimum one (1) inch top, side, and bottom margin;
 - (e) For the first page, have a minimum:
 - 1. Two (2) inch top margin;
 - 2. One (1) inch bottom margin; and
 - 3. One (1) inch side margins; and
 - (f) For the final page, have a minimum:
 - 1. One (1) inch top margin;
 - 2. Two (2) inch bottom margin; and
 - 3. One (1) inch side margins.
- (3) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall follow the guidelines set forth in subsection (2) of this section except:
 - (a) A map;
 - (b) A plat;
 - (c) A drawing;
 - (d) A will; or
 - (e) An instrument whose size is mandated by federal law or regulation.
- (4) A map, plat, or drawing executed after the effective date of this Act and lodged in the office of a county clerk shall contain a three (3) inch by three (3) inch space at the bottom right corner.
- (5) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall have a print clarity as follows:
 - (a) They shall be printed with dark ink, on white paper that does not have background color, images, or writing.
 - (b) A printed character shall be crisp, clean, complete, and legible.
 - (c) A record or document shall not have superfluous decorations such as wax, ribbons, and gold seals.
- (6) All records or documents that are completed by handwriting, executed after the effective date of this Act and lodged in

the office of a county clerk shall be written in dark ink. Blue ink is acceptable if it is dark when photographically or electronically reproduced.

- (7) A record or document executed after the effective date of this Act and lodged in the county clerk's office shall be printed on a minimum of twenty (20) pound weight paper.
- (8) A county clerk shall not be prohibited from filing a record or document that does not meet the requirements established by this section if the instrument has been created, certified, or accepted for filing or recording by the United States government or a government of a nation or state.

HB 156, AN ACT relating to concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.110 is amended to read as follows:

- (1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of three (3) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court.
- (2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:
- (a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;
 - (b) Is twenty-one (21) years of age or older;
 - (c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(g) or KRS 527.040;
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;
 - (f) Demonstrates competence with a firearm by any one (1) of the following:
 - 1. Completion, prior to, on, or after October 1, 1996, of any hunter education and firearms safety course approved by the Department of Fish and Wildlife or a similar agency of another state. The Department of Fish and Wildlife may impose additional qualifications by promulgation of administrative regulations to meet the requirements of this section and may establish fees as may be required, so as to avoid a diversion of fish and game funds as specified in 50 C.F.R. Part 80. Any fee assessed shall be reasonable and shall not exceed the actual cost of administering the program;
 - 2. Completion, prior to, on, or after October 1, 1996, of any law enforcement firearms safety or training course or class offered for special local peace officers or special law enforcement officers conducted or approved by the Department of Criminal Justice Training;
 - 3. Completion, prior to, on, or after October 1, 1996, of any firearm safety or training course or class available to the general public offered by law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Criminal Justice Training; or
 - 4. Completion, prior to, on, or after October 1, 1996, of any firearms training or safety course or class conducted by a state-certified firearms instructor or an instructor holding a certification as a firearms instructor issued by a state or federal agency.
- Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training, Department of State Police, and any other state agency with the authority

to certify firearms instructors, shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

- (g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and
 - (h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.
- (3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.
- (4) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees following the date of his retirement. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:
- (a) The name, address, place and date of birth, gender, and Social Security number of the applicant;
 - (b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 - (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (5) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.
- (6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
- (a) A completed application as described in subsection (5) of this section;
 - (b) A recent color photograph of the applicant, as prescribed by administrative regulation; and
 - (c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.
- (7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:
- (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty

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(30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

- (8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.
- (9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.
- (10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.
- (11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6) and (7) of this section.
- (13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
- (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;

- (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding, except that nothing in this section shall preclude a judge from carrying a concealed weapon;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property;
 - (h) Any church, synagogue, house of worship, or other property owned, leased, or otherwise used and operated by a religious organization in the furtherance of a religious purpose, unless the person carrying the concealed deadly weapon has a concealed deadly weapon license and is the pastor of the church or an officer of the church; or
 - (i) Any place where the carrying of firearms is prohibited by federal law.
- (14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons in a vehicle on the premises shall not be a criminal offense so long as the weapons are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, other than the weapons issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.
- (15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.
- (16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.
- (b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly

weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

- (18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

HB 315, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.250 is amended to read as follows:

- (1) Except as otherwise provided in subsection (6) of KRS 403.180, the provisions of any decree respecting maintenance may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.
- (2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party, ~~for~~ the remarriage of the party receiving maintenance, or the cohabitation of the party receiving maintenance with another person on a resident, continuing, conjugal basis.

Calendar

HB 46, HB 77, HB 142, HB 149, HJR 14, HB 67, HB 188, HB 341, HB 350, HR 43, HB 216, HB 357, HCR 34, and HB 294 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 115, HB 81, HB 255, HB 76, HB 46, HB 67, HB 294, HB 350, HB 357, HJR 14, HCR 34, and HR 43** have been posted for passage in the Orders of the Day for January 21, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 202, HB 304, HB 142, and HB 149**

Orders of the Day

HB 92 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 92** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 20, 2000 roll call on **HB 92** - Appendix.)

HB 92 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 92** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 160 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 160** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See January 20 , 2000 roll call on **HB 160** - Appendix.)

HB 160 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 160** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 139 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 139** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 20 , 2000 roll call on **HB 139** - Appendix.)

HB 139 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 139** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 140 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 140** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 20 , 2000 roll call on **HB 140** - Appendix.)

HB 140 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 140** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 205 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 205** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 20 , 2000 roll call on **HB 205** - Appendix.)

HB 205 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 205** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 193, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of Floor Amendment No. 1 to **HB 193**. Agreed.

Representative Haydon moved that **HB 193**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 4.** (See January 20, 2000 roll call on **HB 193** - Appendix.)

HB 193, as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 193**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved

that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that **HB 194** be passed.

On the roll call the vote was: **Yeas 92, Nays 3.** (See January 20, 2000 roll call on **HB 194** - Appendix.)

HB 194 was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 194** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 240 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 240** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 20, 2000 roll call on **HB 240** - Appendix.)

HB 240 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 240** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 241 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 241** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 20, 2000 roll call on **HB 241** - Appendix.)

HB 241 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 241** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 242 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 242** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 20, 2000 roll call on **HB 242** - Appendix.)

HB 242 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 242** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 303, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Committee Amendment No. 1 to **HB 303**. Agreed.

Representative Bruce moved that **HB 303**, as amended, be passed.

On the roll call the vote was: **Yeas 69, Nays 23.** (See January 20, 2000 roll call on **HB 303** - Appendix.)

HB 303, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 303**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 312 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 312** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 20, 2000 roll call on **HB 312** - Appendix.)

HB 312 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 312** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 340, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute No. 1 to **HB 340**. Agreed.

Representative Barrows moved that **HB 340**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 20, 2000 roll call on **HB 340** - Appendix.)

HB 340, by way of Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 340**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 416, by Representative Yonts: AN ACT relating to corrections employees.

HB 417, by Representative R. Adams: AN ACT relating to cellular antenna towers.

HB 418, by Representative Buckingham: AN ACT relating to property tax.

HB 419, by Representative Heleringer: AN ACT relating to sex offender risk assessments.

HB 420, by Representative Alexander: AN ACT relating to superintendents of schools.

HB 421, by Representative Palumbo: AN ACT relating to home health care.

HB 422, by Representatives Vincent, Jenkins, Bratcher, and Anderson: AN ACT relating to disability retirement.

HB 423, by Representative Riggs: AN ACT relating to the structure and function of cities upon reclassification to the second class and declaring an emergency.

HB 424, by Representatives Horlander, Heleringer, Bratcher, Feeley, Crimm, DeWeese, L. Clark, Miller, P. Clark, Marzian, Wayne, Johns, Jenkins, and D. Butler: AN ACT relating to elections.

HB 425, by Representative Nunn: AN ACT relating to motor vehicles.

HB 426, by Representative Yonts: AN ACT relating to property taxes.

HB 427, by Representatives Nunn, Stein, Westrom, Johns, Gooch, Crimm, McKee, Bratcher, and Burch: AN ACT relating to domestic violence and sexual assault.

HCR 53, by Representative Barrows: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the impact of immigration on public services and the private sector.

HCR 54, by Representatives Allen, Ford, Cox, Cave, Baugh, and Bratcher: A CONCURRENT RESOLUTION directing a study of limiting bill requests or introductions.

HR 55, by Representatives Marzian, Stein, Palumbo, Westrom, Jordan, and Jenkins: A RESOLUTION commemorating the twenty-seventh anniversary of the United States Supreme Court decision of *Roe v. Wade*, which legalized abortion and brought the state's interest and the woman's right to choose into balance.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 44, HB 117, HB 136, HB 157, HB 284, HB 285, HB 305, HB 321, HB 322, HB 332, HB 373, HB 180, HCR 7, HCR 8, HCR 11, HCR 18, HCR 19, HCR 20, HCR 21, HCR 22, HCR 23, HCR 24, HCR 35, HCR 36, HCR 37**

Transportation: **HB 108, HB 325, HJR 41**

Health and Welfare: **HB 364**

Seniors, Military Affairs, and Public Safety: **HB 94, HB 243, HB 317**

Motions, Petitions, and Communications (Continued)

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 139**. Agreed.

Representative Riggs moved the adoption of the following **Legislative Citation No. 16**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and pays tribute to the Kentucky Fire Sprinkler Contractors Foundation. Whereas, this remarkable foundation was created in 1995 to both promote fire prevention education and provide charitable support for fire victims; and, whereas, this outstanding group holds a single charitable event to raise funds annually and has, to this day, donated \$102,000 to the Kosair Children's Hospital Pediatric Burn Center; and, inasmuch as this most vital organization has served honorably and worked diligently for the safety and protection of the lives and property of the citizens of this Commonwealth; therefore, the members of this distinguished body are pleased to join with Representative Steve Riggs in commending the Kentucky Fire Sprinkler Contractors Foundation for these charitable good deeds performed earnestly on behalf of the children of Kentucky. Done in Frankfort, this twentieth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 16 was adopted without objection.

Representative Riner moved that Floor Amendment No. 5, Floor Amendment No. 6, Floor Amendment No. 8, and Floor Amendment No. 10 be withdrawn from **HB 170**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 181**, by Representative Riggs:

On page 1, line 16, after the words "*in state active duty*," insert "*reserve duty, reserve duty for training*"; and

On page 2, line 24, after the words "*Died while on active duty*" insert "*or reserve duty*"; and

On page 2, line 27, after the words "*active duty*" insert "*or reserve duty*"; and

On page 5, line 2, after the words "state active duty, active duty" insert "*or reserve duty*"; and

On page 5, line 3, after "*active*" insert "*or reserve*".

Floor Amendment No. 1 to the Committee Substitute to **HB 67**, by Representative Nunn:

On page 3, between lines 13 and 14, by inserting the following:

(5) Advertisements, mailings, or other written communications made by political parties, labor unions or religious institutions, that solicit money promoting one (1) or more candidates, employment, wage or benefit increases, or public or private service, shall be exempt from the provisions of this section.

Floor Amendment No. 1 to **HB 249**, by Representative Treesh:

On page 4, after lines 5, by adding the following:

Section 3. KRS 424.260 is amended to read as follows:

- (1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city,

county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ~~twenty[ten]~~ thousand dollars ~~(\$20,000)(\$10,000)~~ without first making newspaper advertisement for bids.

- (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ~~twenty[ten]~~ thousand dollars ~~(\$20,000)(\$10,000)~~, the fiscal court requirement shall prevail.
- (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Purchases or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.
- (b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.
- (4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

Floor Amendment No. 11 to **HB 170**, by Representative Riner:

On page 21, after line 6, by inserting the following new section:

"Section 7. KRS 620.040 is amended to read as follows:

- (1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.
- (3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (4) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is

returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(5) Information maintained by the cabinet in paper or electronic files regarding persons substantiated for child abuse or neglect shall be made available to employers conducting background checks for persons seeking employment with child care centers and to persons conducting background checks for family child care homes. The background check shall include all records in the cabinet's possession since 1972 or earlier if records exist.

- (a) Only information on substantiated findings shall be released to the person conducting the background check and to the subject of the report.**
- (b) Information released to the subject of the substantiated report shall include notice of the subject's right to appeal the substantiated finding of the cabinet. Notice to the subject shall be provided by registered mail at the same time information is released to the person conducting the background check.**

- (6)(5)(a)** One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Floor Amendment No. 1 to the Committee Substitute to **HB 77**, by Representative Treesh:

On page 11, line 20, after "**(b)**" insert "**Effective July 1, 2006,**".

Floor Amendment No. 1 to the Committee Substitute to **HB 191**, by Representative Crall:

On page 3, line 26 by inserting the following language after "**section**" and before "**. The**"

; however, in no event shall the Finance and Administration Cabinet eliminate the number of properties to be fully

evaluated and considered for lease to less than two (2) properties.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 15:** Representative Yonts
- HB 100:** Representatives Ballard, C. Belcher, Branham, Buckingham,
D. Butler, P. Clark, Coleman, Draud, Haydon, Hoffman, Johns,
Lee, Marzian, Siler
- HB 179:** Representatives J. Adams, J. Arnold, Bowling, Bratcher, Collins,
Cornett, Crenshaw, Heleringer, Palumbo, Polston, Stacy, Stumbo,
Webb
- HB 213:** Representative L. Belcher
- HB 258:** Representatives Walton, Yonts
- HB 267:** Representatives Crimm, DeWeese
- HB 274:** Representative Thomas
- HB 281:** Representative DeWeese
- HB 304:** Representative L. Belcher
- HB 312:** Representative Yonts
- HB 318:** Representative Buckingham
- HB 341:** Representative Anderson
- HB 377:** Representative Branham
- HB 397:** Representative Yonts

Announcements

The following meetings were announced:

Minority Caucus, upon adjournment

Western Caucus, upon adjournment, Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 21, 2000.

On the roll call the vote was **Yeas 75**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, Cherry, L. Clark, P. Clark, Collins, Colter, Cornett, Crenshaw, Damron, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, McKee, Miller, Moberly, Napier, Palmer, Palumbo, Polston, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stein, Stumbo, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Webb, Westrom, Wilkey, Worthington. **Nays 7**--Crall, Crimm, Hoover, Nunn, Stewart, Tapp, Walton.

The motion to adjourn was adopted.

JANUARY 21, 2000
THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jack Brewer, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of January 20, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 3** and **SB 63**. (Time: 10:10 a.m.)

Introduction of Bills and Resolutions

HB 428, by Representatives Marzian and Johns: AN ACT relating to bicycle safety.

HB 429, by Representative Marzian: AN ACT relating to blood testing.

HB 430, by Representatives Lee, R. Adams, Weaver, Stacy, Allen, A. Arnold, Feeley, Marcotte, and C. Belcher: AN ACT relating to judicial circuits.

HB 431, by Representative Lindsay: AN ACT changing the classification of the City of Henderson, in Henderson County.

HB 432, by Representative D. Butler: AN ACT relating to relating to crimes and punishments.

HB 433, by Representative R. Adams: AN ACT relating to violating graves.

HB 434, by Representative Nesler: AN ACT relating to annexation.

HJR 56, by Representatives Walton and Kerr: A JOINT RESOLUTION encouraging local schools and school districts to adopt policies to prohibit school-related extracurricular activities on a Sunday.

HR 57, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in honor of Coach Allan Hatcher.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 418, HB 426**

Banking and Insurance: **HB 415**

Economic Development: **SB 34**

Education: **HB 420, SB 1**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 413, HB 424**

Health and Welfare: **HB 421, HB 427, HR 55**

Judiciary: **HB 410, HB 419, SB 28, SB 44, SCR 4**

Licensing and Occupations: **HB 409, HB 411**

Local Government: **HB 412, HB 423**

Natural Resources and Environment: **HB 414**

State Government: **HB 416, HB 422, HCR 53, HCR 54, SB 24, SB 26**

Tourism, Development, and Energy: **HB 417**

Transportation: **HB 425**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 365**

State Government: **HB 221, HB 222, HB 356, HB 362, HB 372, HB 374**

Education: **HB 260**

The following Resolution has been withdrawn from Committee consideration: **HCR 32**

Calendar

HB 150, HB 253, HB 257, HB 18, HB 342, HB 358, HCR 45, HB 124, HB 156, and HB 315 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 56, HB 77, HB 216, HB 150, HB 253, HB 257, HB 315, and HCR 45** have been posted for passage in the Orders of the Day for January 24, 2000.

Orders of the Day

HJR 5, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of Committee Substitute No. 1 to **HJR 5**. Agreed.

Representative Hoffman moved that **HJR 5**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 21, 2000 roll call on **HJR 5** - Appendix.)

HJR 5, by way of Committee Substitute, was adopted.

Representative Hoffman moved the adoption of Floor Amendment No. 1 Title. Agreed: and the title was agreed to.

Representative Hoffman moved that the vote by which **HJR 5**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 191, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of Committee Substitute to **HB 191**. Agreed.

Representative Crall moved the adoption of Floor Amendment No. 1 to **HB 191**. Agreed.

Representative Haydon moved that **HB 191**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 21, 2000 roll call on **HB 191** - Appendix.)

HB 191, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 191**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 249, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of Floor Amendment No. 1 to **HB 249**. Agreed.

Representative Lee moved that **HB 249**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 2**. (See January 21, 2000 roll call on **HB 249** - Appendix.)

HB 249, as amended, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 249**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 170, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved the adoption of Floor Amendment No. 3 to **HB 170**. Agreed.

Representative Hoover moved the adoption of Floor Amendment No. 9 to **HB 170**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 11 to **HB 170**.

Representative Burch inquired if Floor Amendment No. 11 to **HB 170** was germane.

The Speaker ruled that Floor Amendment No. 11 to **HB 170** was not germane.

Representative Burch moved that **HB 170**, as amended, be passed.

On the roll call the vote was: **Yeas 82, Nays 16**. (See January 21, 2000 roll call on **HB 170** - Appendix.)

HB 170, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 170**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 274 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 274** be passed.

On the roll call the vote was: **Yeas 92, Nays 4**. (See January 21, 2000 roll call on **HB 274** - Appendix.)

HB 274 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 274** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 255 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 255** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See January 21, 2000 roll call on **HB 255** - Appendix.)

HB 255 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 255** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of Committee Substitute No. 1 to **HB 350**. Agreed.

Representative A. Arnold moved that **HB 350**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 21, 2000 roll call on **HB 350** - Appendix.)

HB 350, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 350**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 19**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Chad Nicholas Goodman and to express deepest sympathy to his devastated family and all who share in the loss through the tragic and untimely passing of this young man, the beloved son of Taulbee and Linda Goodman and the cherished friend of many grieving young friends in the Prestonsburg community. Chad Nicholas Goodman and his tremendous potential is lost to all those who loved him and that all he could be will never be known. He will be forever held dear in the hearts of his family and friends and remembered as the blithe young man whose smile will surely be a tender recollection of happy days. The members of this august body join with Representative Gregory D. Stumbo in remembering Chad Nicholas Goodman today with profound regret and in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this twenty-first day of January, in the year of our Lord, two thousand.

Legislative Citation No. 19 was adopted without objection.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 435, by Representative Ratliff: AN ACT relating to economic assistance to local governments.

HB 436, by Representative Gooch: AN ACT relating to coal mining.

HB 437, by Representatives Moberly, Draud, Miller, Barrows, Rasche, Buckingham, Geveden, Lee, Colter, Graham, Siler, Treesh, Napier, R. Adams, Callahan, and L. Belcher: AN ACT relating to education and declaring an emergency.

HB 438, by Representatives Siler, Bowling, L. Belcher, D. D. Butler, A. Arnold, Ford, Damron, Nunn, Napier, C. Belcher, T. Turner, J. Turner, Stewart, Colter, Rader, Hoover, Hoffman, Anderson, Haydon, J. Adams, Riggs, Buckingham, Graham, Barrows, Scott, Coleman, McKee, Thompson, Allen, Ratliff, Stumbo, and Alexander: AN ACT relating to tourism and convention commissions.

HB 439, by Representative Stumbo: AN ACT relating to retirement.

HB 440, by Representative Damron: AN ACT relating to public health.

HB 441, by Representative Treesh: AN ACT relating to income taxation.

HR 58, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives upon the occasion of the One Hundred Twenty-fifth Anniversary of Calvary Baptist Church.

HJR 59, by Representative Colter: A JOINT RESOLUTION directing the Transportation Cabinet to name KY 11 from US 421 to the town of Oneida in Clay County the "James Anderson Burns Highway".

HCR 60, by Representative Damron: A CONCURRENT RESOLUTION creating a task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

HJR 61, by Representatives Napier, Upchurch, Bowling, Damron, Hoover, Scott, T. Turner, Coleman, and Ford: A JOINT RESOLUTION authorizing and directing the University of Kentucky, the Bluegrass Area Development District and the Lake Cumberland Area Development District to conduct a study relating to the feasibility of establishing a state park and the cost of constructing state lodges at Lake Herrington and at General Burnside Island State Park, and making an appropriation therefor.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

State Government: **HCR 32, HB 380**

Local Government: **HB 397, HB 335, HB 309**

Natural Resources and Environment: **HB 376, HB 391, HB 404, HB 407**

Licensing and Occupations: **HB 409**

Appropriations and Revenue: **HB 204, HB 175**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 113**

Motions, Petitions, and Communications (Continued)

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HJR 5**. Agreed.

Representative Nesler moved that the rules be suspended to act upon a Resolution and a Legislative Citation. Agreed.

Representative Nesler moved the adoption of the following **HR 57**:

HR 57, A RESOLUTION adjourning the House of Representatives in honor of Coach Allan Hatcher.

WHEREAS, Coach Allan Hatcher has been coaching boys basketball for over twenty years, and he is in his eighth year of coaching boys basketball at Graves County High School; he has led the Eagles to four regional titles and one runner-up, and he has compiled a 189-48 record while at Graves County High School; and

WHEREAS, in his years of coaching boys basketball, Coach Hatcher has compiled a 510-145 career record, his 500th victory coming on December 14, 1999, with a win over Mayfield, and he also coached girls basketball at Graves County High School for two seasons, leading them to a 46-14 record and a Final 4 finish in the 1994-95 season; and

WHEREAS, Coach Hatcher coached boys basketball for Marshall County High School, leading his teams to win four regional titles in the 1980's; and after leaving Marshall County, he became an assistant coach for both Western Kentucky and Morehead State Universities; and

WHEREAS, Coach Hatcher is a graduate of Marshall University in Huntington, West Virginia, and his West Virginia team won the West Virginia State Championship title in 1983; and

WHEREAS, Coach Hatcher is a loving husband to Penny Hatcher, and they have three sons, Mark, Chase, and Wes; and

WHEREAS, Coach Hatcher has won the respect and admiration of, and contributed to the development of, many outstanding and responsible young athletes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hails and commends Coach Allan Hatcher for his contribution to young athletes in this Commonwealth. He has demonstrated strong character and is an element of invincible strength to all the lives he has touched.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Coach Allan Hatcher.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Coach Allan Hatcher, Graves County High School, 1107 Housman Street, Mayfield, Kentucky.

There being no objection **HR 57** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 17**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Coach Allan Hatcher for providing outstanding guidance and leadership while coaching boys basketball at Graves County High School. Currently in his eighth season with the Graves County High School boys basketball program, this highly effective and skilled coach has led the Eagles to four regional titles, one runner-up title and has compiled a 189-48 record. Additionally, the girls basketball team, which he coached for two seasons, earned a 46-14 record. His remarkable career has spanned more than twenty years of coaching boys basketball, during which he has compiled a 510-145 career record, with his 500th win taking place on December 14, 1999. Inasmuch as this generous and talented coach has devoted his career to developing the character, discipline, good health and skills of the young athletes he has coached, the members of this distinguished body do hereby join with Representative Fred Nesler in applauding the remarkable contributions and accomplishments of Coach Allan Hatcher and in extending best wishes for his continued success and good fortune. Done in Frankfort, this twenty-first day of January, in the year of our Lord, two thousand.

Legislative Citation No. 17 was adopted without objection.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that he be recorded as voting "yea" on **HB 274**. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that he be recorded as voting "yea" on **HB 303**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that his vote be changed from "nay" to "yea" on **HB 249**. Agreed.

Representative Palumbo moved that the rules be suspended to act upon a Resolution and a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **HR 58**:

HR 58, A RESOLUTION adjourning the House of Representatives upon the occasion of the One Hundred Twenty-fifth Anniversary of Calvary Baptist Church.

WHEREAS, On January 27, 1875, the Second Baptist Church in Lexington, Kentucky, was formulated with forty-four parishioners; soon thereafter, the church voted to change its name to the Pilgrim Baptist Church; and on May 27, 1906, a new sanctuary on the southwest corner of High Street and Rodes Avenue was dedicated as Calvary Baptist Church; and

WHEREAS, through the years, Calvary Baptist Church has been fortunate to have dedicated and untiring pastors leading its congregations: its first pastor, Dr. J. M. Frost, served from 1875-1880; Pastor J. J. Taylor served from 1880-1888; Pastor F. B. Raymond served from 1888-1891; Pastor Walter Scott Splawn served from 1892-1895; Pastor J. H. Boyet served from 1895-1898; Pastor W. D. Nowlin served from 1899-1904; Pastor W. P. Hines served from 1904-1908; Dr. Thomas C. Ecton served from 1909-1947; Dr. F. Russell Purdy served from 1947-1954; Dr. Franklin P. Owen served from 1954-1972; Reverend L. Reed Polk, Jr. served from 1973-1980; Dr. J. Dan Cooper served from 1980-1990; and Dr. Robert G. Baker has served from 1991 to present; and

WHEREAS, this remarkable Christian institution has continually given back to the community that has supported it for the past one hundred twenty-five years in the expansion of its educational facilities and its commitment to multiple ministries that have faithfully labored to convey the word of God and diligently provide sound spiritual guidance, religious education, and pastoral care for members throughout the years; and

WHEREAS, Calvary Baptist Church has faithfully provided spiritual guidance and instruction to the Lexington-Fayette County community and has touched the lives of countless people over many generations;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes Calvary Baptist Church as an exceptional house of worship that has offered solace and support to the citizens of its congregation and its community for one hundred twenty-five phenomenal years, and its members are applauded for their tireless devotion and faithful attendance.

Section 2. This honorable body notes that, in jubilant celebration of the rich heritage of its one hundred twenty-five years, Calvary Baptist Church will begin its anniversary celebration with a worship service on January 23, 2000, with congratulatory wishes from various community and state declarations, followed by a groundbreaking ceremony of the Calvary Baptist Church Activity Center/Fellowship Hall that will provide members with opportunities for recreation, learning and ministry mission outreach, and that other celebrations will be held throughout the year to celebrate this glorious event.

Section 3. The House of Representatives wishes to Calvary Baptist Church success in all future endeavors.

Section 4. When the House of Representatives adjourns this day, January 21, 2000, it does so in honor of the occasion of the one hundred twenty-fifth anniversary of Calvary Baptist Church.

Section 5. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. Robert G. Baker, Calvary Baptist Church, 150 East High Street, Lexington, Kentucky 40507.

There being no objection **HR 58** was adopted.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 18**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Calvary Baptist Church upon the auspicious occasion of this venerable institution's 125th Anniversary celebration. Organized on January 27, 1875, by a group of forty-four charter members, this historic church carried the names of the Second Baptist Church, the Pilgrim Baptist Church and was dedicated as Calvary Baptist Church in 1906. Having had the good fortune of dedicated and untiring pastors, this remarkable institution has offered consistent spiritual guidance and support to its members and the surrounding community, faithfully laboring to convey the word of God and diligently provide sound spiritual guidance, religious education and pastoral care for the members. Inasmuch as it has contributed richly to the betterment of the community, the entire membership joins with Representative Ruth Ann Palumbo in praising Calvary Baptist Church and the members of this devout congregation for tireless devotion and perseverance and in extending best wishes for continued good fortune as they rejoice in the abundant blessings of the last one hundred twenty-five years of Christian fellowship. Done in Frankfort, this twenty-first day of January, in the year of our Lord, two thousand.

Legislative Citation No. 18 was adopted without objection.

Representative Colter moved the adoption of the following **Legislative Citation No. 20**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory of Elmo Greer and do respectfully join with Representative Barbara White Colter in expressing its deepest sympathy to his beloved wife, Agnes Elam Greer; his cherished daughters, Phyllis and Karen; his devoted sons, Rex, Randall, Elmo Lee, Jerry and Lanny; his adoring grandchildren and great-grandchildren; and all who share in the great loss on the passing of this fine and beloved citizen of the Commonwealth. A retired road construction businessman and a member of one of Laurel County's most highly-regarded families, he was born in Clay County and moved to Laurel County in the 1930's. In partnership with his brothers, Warren and Willie Greer, and his brother-in-law, Don Young, the Greer Brothers & Young Construction Company which they founded became one of this nation's largest road-building firms. He later founded G & G Construction which became the contracting firm of Elmo Greer & Sons, Inc., served as president of the Kentucky Highway Division of American General Contractors, and was inducted into the University of Kentucky College of Engineering Construction Managers Hall of Fame. Elmo Greer will be deeply missed by those whose lives were touched by his remarkable and productive presence. Done in Frankfort, this twenty-first day of January, in the year of our Lord, two thousand.

Legislative Citation No. 20 was adopted without objection.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to Committee Substitute to **HB 115**, by Representative Wayne:

On page 1, line 21, by deleting "three and one-half (3 1/2)", and inserting in lieu thereof "four (4)"; and

On page 1, lines 23 and 24, by deleting "three and one-half (3 1/2)", and inserting in lieu thereof "four (4)"; and

On page 2, line 7, after the word "inspector", insert the words ", the state fire marshal".

Floor Amendment No. 2 to Committee Substitute to **HB 67**, by Representative Westrom:

On page 3, line 1, by deleting the phrase, "The promotional offer shall include" and inserting in lieu thereof, "Any promotional offer mentioning a prize shall include",

On page 3, line 22, by deleting the phrase, "an entry" and inserting in lieu thereof, "a prize entry", and

On page 4, lines 2 and 3, by deleting the phrase, "an entry" and inserting in lieu thereof, "a prize entry".

Floor Amendment No. 1 to **HB 358**, by Representative Nunn:

On page 3, line 4, after ".", by inserting "When determining the distribution of the moneys relating to training, the need of the applicant shall be one of the criteria considered by the board."; and

On page 6, line 20, after ".", by inserting "Any animal shelter, public or private, which takes in stray dogs and does not have regular hours for public access, shall post semi-monthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, and a contact number.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 15: Representative Draud
HB 76: Representative Cornett
HB 100: Representatives Ausmus, D. D. Butler, Childers, Gooch, Stein, Thompson
HB 200: Representative Westrom
HB 213: Representative D. D. Butler
HB 236: Representative Ratliff
HB 258: Representatives L. Clark, Scott
HB 266: Representative P. Clark
HB 267: Representatives Anderson, Bratcher, Childers, Heleringer, Rader, Tapp, Treesh
HB 273: Representatives Stewart, J. Turner
HB 304: Representatives D. D. Butler, Stewart
HB 334: Representative Upchurch
HB 344: Representative Kerr
HB 347: Representative Gray
HB 390: Representatives Anderson, Collins, Jordan, Worthington
HB 405: Representative Stewart
HB 427: Representative Jenkins
HB 439: Representative Lindsay
HB 440: Representative Tapp

Announcements

The following meeting was announced:

Budget Review, January 24, 2000, 2:00 p.m., Room 125

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., January 24, 2000.

On the roll call the vote was **Yeas 80**--J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cherry, Childers, L. Clark, P. Clark, Collins, Colter, Cornett, Crenshaw, Crimm, Damron, DeWeese, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nunn, Palmer, Palumbo, Polston, Rasche, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Stacy, Stumbo, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Vincent, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 4**--Crall, Hoover, Stewart, Walton.

The motion to adjourn was adopted.

JANUARY 24, 2000
FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Lindsay and Sims.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The Speaker announced the newly elected member of the 43rd District. The Secretary of State Certificate of Election for the member in the 43rd District is as follows:

I, John Y. Brown, III, Secretary of State of the Commonwealth of Kentucky, do hereby certify that the attached is a true and exact copy of the Certificate of Election issued on January 24, 2000, to Paul Bather as the duly elected member of the House of the General Assembly, 43rd Representative District, of the Commonwealth of Kentucky.

Given under my hand and seal of office this 24th day of January, 2000.

John Y Brown III

Secretary of State

Commonwealth of Kentucky

Representative Stumbo moved that the Journal show that the gentleman from Jefferson 43 produced a Certificate of Election and that the Certificate be confirmed. Agreed.

The oath of office was administered to Representative Bather by the Honorable District Court Judge Joan Stringer.

The oath of office was administered to Chief Doorkeeper Davis by the Honorable District Court Judge Stringer.

Representative Ballard moved that the reading of the Journal of January 21, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 442, by Representatives Stumbo, Heleringer, Allen, Burch, Scott, Kerr, Treesh, Reinhardt, Marcotte, P. Clark, Haydon, Tapp, Ford, Worthington, Cave, L. Belcher, Simpson, Crimm, Johns, L. Clark, Horlander, Walton, Wayne, Hoover, R. Adams, Ausmus, D. Butler, J. Arnold, Jenkins, Weaver, Geveden, DeWeese, Anderson, Baugh, Crall, Fischer, Polston, Cox, Bowling, Bruce, and Callahan: AN ACT relating to individual income tax.

HB 443, by Representative Richards: AN ACT relating to salvage motor vehicle titles.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 435, HB 441, SB 63**

Education: **HB 437, HB 440, HJR 56**

Health and Welfare: **HB 429**

Judiciary: **HB 430, HB 432, HB 433, HB 439, SB 3**

Local Government: **HB 431, HB 434, HB 438**

Natural Resources and Environment: **HB 436**

State Government: **HCR 60, HJR 61**

Transportation: **HB 428, HJR 59**

Report of Committees

The Committee on Committees has reported the following appointments:

Representative Bather to the Committees on Banking and Insurance, Local Government, and Transportation.

Representative Simpson to the Committee on Local Government.

The Committee on Committees reported that Representative Simpson has been removed from the Committee on Health and Welfare.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 245, HB 355, HB 410, SB 44**

Banking and Insurance: **HB 354, HB 343, HB 377, HB 396, HB 300, HB 375**

The following Bill has been withdrawn from Committee consideration:

Judiciary: **HB 33**

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 18, HB 124, HB 156, HB 342, and HB 358** have been posted for passage in the Orders of the Day for January 25, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 181**

Orders of the Day

HB 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **HB 46** be passed.

On the roll call the vote was: **Yeas 89, Nays 0.** (See January 24, 2000 roll call on **HB 46** - Appendix.)

HB 46 was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 46** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 67, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute No. 1 to **HB 67**. Agreed.

Representative Westrom moved the adoption of Floor Amendment No. 2 to the Committee Substitute No. 1 to **HB 67**.

Agreed.

Representative Westrom moved that **HB 67**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See January 24, 2000 roll call on **HB 67** - Appendix.)

HB 67, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 67**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 294 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 294** be passed.

On the roll call the vote was: **Yeas 92, Nays 1.** (See January 24, 2000 roll call on **HB 294** - Appendix.)

HB 294 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 294** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 357 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HB 357** be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See January 24, 2000 roll call on **HB 357** - Appendix.)

HB 357 was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 357** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 14 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative G. Graham moved that **HJR 14** be adopted.

On the roll call the vote was: **Yeas 77, Nays 11.** (See January 24, 2000 roll call on **HJR 14**-Appendix.)

HJR 14 was adopted.

Representative G. Graham moved that the vote by which **HJR 14** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 34, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of Committee Amendment No. 1 to **HCR 34**. Agreed.

Representative R. Adams moved that **HCR 34**, as amended, be adopted.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 24, 2000 roll call on **HCR 34** - Appendix.)

HCR 34, as amended, was adopted.

Representative R. Adams moved that the vote by which **HCR 34**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 56 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bratcher moved that **HB 56** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 24 , 2000 roll call on **HB 56** - Appendix.)

HB 56 was passed and the title agreed to.

Representative Bratcher moved that the vote by which **HB 56** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 216, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved the adoption of Committee Amendment No. 1 to **HB 216**. Agreed.

Representative L. Belcher moved that **HB 216**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 4.** (See January 24, 2000 roll call on **HB 216** - Appendix.)

HB 216, as amended, was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 216**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **HB 253** be passed.

On the roll call the vote was: **Yeas 93, Nays 3.** (See January 24 , 2000 roll call on **HB 253** - Appendix.)

HB 253 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 253** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 257 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marcotte moved that **HB 257** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 24 , 2000 roll call on **HB 257** - Appendix.)

HB 257 was passed and the title agreed to.

Representative Marcotte moved that the vote by which **HB 257** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 45 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HCR 45** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0.** (See January 24 , 2000 roll call on **HCR 45** - Appendix.)

HCR 45 was adopted.

Representative Bruce moved that the vote by which **HCR 45** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 444, by Representative Barrows: AN ACT relating to charitable community foundations.

HB 445, by Representatives Riggs and Bruce: AN ACT relating to insurance.

HB 446, by Representatives P. Clark, Kerr, Anderson, Fischer, and Draud: AN ACT relating to property affected by actions of state agencies.

HB 447, by Representative Riggs: AN ACT relating to investment of funds by the State Investment Commission.

HB 448, by Representatives Jenkins, Marzian, Burch, Westrom, Graham, Jordan, Stein, C. Belcher, L. Clark, Nunn, Johns, Rader, Horlander, Colter, Treesh, and Scott: AN ACT relating to rape crisis centers.

HB 449, by Representatives Heleringer, Burch, Crimm, D. Butler, J. Turner, Allen, Bratcher, D. D. Butler, Johns, and P. Clark: AN ACT relating to state mental institutions, and declaring an emergency.

HB 450, by Representatives Marzian, Stein, and Jenkins: AN ACT relating to health insurance coverage for contraceptives.

HB 451, by Representatives Marzian and Jordan: AN ACT relating to housing discrimination.

HB 452, by Representative Damron: AN ACT relating to continuing care retirement communities.

HB 453, by Representative Damron: AN ACT relating to life insurance.

HB 454, by Representative Damron: AN ACT relating to the Interstate Compact for Adult Offender Supervision and matters incidental to the adoption thereof.

HB 455, by Representative Cox: AN ACT relating to a school voucher program.

HB 456, by Representatives Barrows and Palmer: AN ACT relating to tobacco.

HR 62, by Representative Hoover: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kermit Mann.

HR 63, by Representatives Palumbo and Nunn: A RESOLUTION adjourning the House of Representatives upon the occasion of the seventieth birthday of Velma Justice Childers.

HR 64, by Representative Riner: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cecil Byrd and of Christian missionaries throughout the ages, who have willingly sacrificed comfort, safety, and ultimately, their lives, that others might know the love of Jesus Christ.

HCR 65, by Representatives C. Belcher and Damron: A CONCURRENT RESOLUTION calling for full funding to upgrade the nine part-time ombudsmen positions in the Pennyryle, Lake Cumberland, Lincoln Trail, Purchase, FIVCO, Buffalo Trace, Kentucky River, Gateway, and Northern Kentucky Area Development Districts to full-time positions.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Local Government: **HB 62, HB 127, HB 131, HB 143, HB 244, HB 252, HB 328, HB 348, HB 423**

Health and Welfare: **HCR 44, HB 296**

Natural Resources and Environment: **HB 414, HB 436**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 132, HB 298, HB 363**

Motions, Petitions, and Communications (Continued)

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 46** and **HB 67**. Agreed.

Representative Palumbo moved the adoption of the following **HR 63**:

HR 63, A RESOLUTION adjourning the House of Representatives upon the occasion of the seventieth birthday of

Velma Justice Childers.

WHEREAS, Velma Justice Childers was born on January 24, 1930, a native of Pike County, Kentucky; and

WHEREAS, Velma Justice Childers was the fourteenth of fifteen loving children born to the late Vada Smith Justice and Flem Justice; and

WHEREAS, Velma Justice Childers is a graduate of Hellier High School where she was a cheerleader, and loved among her peers; and

WHEREAS, Velma Justice Childers is the adored mother of a daughter, Barbara Suann Childers, and a son, Masten Childers II; and she is the proud grandmother of Masten Childers III, MacFarland Childers, Judith Gibson Childers, and Havana Ellen Childers; and

WHEREAS, Velma Justice Childers is an esteemed member of the Pike County community, and through the years, she has played a very active role in national Republican politics; and

WHEREAS, on this day, Monday, January 24, 2000, Velma Justice Childers is seventy years young;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives esteem it to be an honor and a privilege to honor Velma Justice Childers upon the occasion of her seventieth birthday.

Section 2. When the House of Representatives adjourns this day, January 24, 2000, it does so in honor of the occasion of the seventieth birthday of Velma Justice Childers.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Velma Justice Childers, P.O. Box 18, Pikeville, Kentucky 41502.

There being no objection **HR 63** was adopted.

Representative Riner moved the adoption of the following **HR 64**:

HR 64, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cecil Byrd and of Christian missionaries throughout the ages, who have willingly sacrificed comfort, safety, and ultimately, their lives, that others might know the love of Jesus Christ.

WHEREAS, after a long and fruitful ministry in Zambia, Cecil Byrd and his wife, Betty, and their children took an even more difficult assignment in Maputo, Mozambique; and

WHEREAS, while in Mozambique, Cecil built his own housing, including a Christian Training Center where Cecil taught, and a multipurpose building where church services and sewing and literacy classes were held, as well as a medical component operated by a nurse; and

WHEREAS, the Lord gave Cecil Byrd the heart of a servant to use every resource of the Good News for Africa Mission to meet the medical, educational, and spiritual needs of the people of Mozambique; and

WHEREAS, even when on furlough, the Savior put it into Cecil's heart to make diligent use of his time translating Christian books and manuscripts into Portuguese for the literate population of Mozambique; and

WHEREAS, while on furlough in the summer of 1999, the Lord moved several churches to donate enough support for Cecil and Betty to obtain a 4-wheel drive vehicle with a wench, so that they might reach those deepest in the bush with emergency services, as well as the gospel message; and

WHEREAS, the Lord gave Cecil Byrd the grace to be faithful to the Holy Bible as the inspired, inerrant Word of God, and he, therefore, took seriously the Lord's Great Commission, as stated in Mark 16:15, "Go ye into all the world, and preach the gospel to every creature"; and

WHEREAS, the Lord blessed Cecil and Betty with five wonderful children, Miriam, Ben, Kathy, Daniel, and Deborah, all of whom shared in the outreach to the people of Africa; and

WHEREAS, one of the greatest rewards for Cecil Byrd's labor of love in Africa was to see the good fruit of biblical teaching and a Christ-like spirit manifested in the lives of Miriam, Ben, Kathy, Daniel, and Deborah; and

WHEREAS, it is the wish of Betty Byrd that the death of her husband not be a time of sadness, but of praise and thanksgiving to the Lord Jesus Christ who made Cecil Byrd's life a blessing to two continents and two kingdoms;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body joins Betty, Miriam, Ben, Kathy, Daniel, and Deborah in returning thanks to God for the life and ministry of Cecil Byrd, whose example of prayer, obedience to God's Word, and selfless sacrifice is an inspiration to all.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Cecil Byrd.

Section 3. Those desiring to help the family at this time are encouraged to make a check payable to the Okolona Christian Church, and designate the gift for the Cecil Byrd family.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Okolona Christian Church, 4701 East Manslick Road, Louisville, Kentucky 40219, for distribution to the family and friends of Cecil Byrd.

There being no objection **HR 64** was adopted.

Representative Riner moved that a call of the roll be taken to show co-sponsors of **HR 64**. Agreed.

(See January 24, 2000 roll call to show co-sponsors of **HR 64**-Appendix)

Representative Hoover moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kermit Mann.

With deepest respect and admiration, we pay homage and tribute to Kermit Mann, and we pause in silent reverence for his soul.

WHEREAS, Kermit Mann was born on September 2, 1911, a native of Russell County, Kentucky, and he traversed these earthly bounds on January 9, 2000; and

WHEREAS, Kermit Mann was the loving son of the late Pearlle Thurston Mann and Claude Mann; he was the devoted husband of Elizabeth Buster Mann; and he was the loving father of a son, Billy Mann, and a daughter, Brenda Weston; and he was the proud grandfather of 3 grandchildren and 4 great-grandchildren; and

WHEREAS, Kermit Mann was an outstanding leader in the Russell County community where he served his constituents with pride as Russell County Clerk from 1962 to 1977; and he was a member of Jamestown Nazarene Church; and

WHEREAS, the passing of Kermit Mann has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Kermit Mann, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Kermit Mann.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Elizabeth Mann, 74 Meadows, Jamestown, Kentucky 42629.

There being no objection **HR 62** was adopted.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that he be recorded as voting "yea" on **HB 46**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 76**, by Representative Weaver:

On page 5, by deleting line 10 in its entirety; and

On page 5, line 11, by deleting "time active duty", and inserting "(8) Veterans who were discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release" in lieu thereof.

Floor Amendment No. 2 to the Committee Substitute to **HB 115**, by Representative Feeley:

On page 1, line 16, by deleting "thirty (30)", and inserting in lieu thereof "sixty (60)".

Floor Amendment No. 1 to **HB 57**, by Representative Feeley:

On page 1, line 3, insert the following language before "*Every organizational*" and after "(1)"

"Except as otherwise provided in subsection (3) of this section,"

On page 1, between lines 13 and 14, insert the following new subsection

- (3) An organizational unit or administrative body of state government employing fewer than five (5) individuals may utilize voice mail for incoming telephone calls if necessary for the efficient operation of that office during regular business hours.

Floor Amendment No. 1 to **HR 43**, by Representative Gray:

On page 1, line 3 by striking out "members of" and inserting "candidates for election to" in lieu thereof.

Floor Amendment No. 1 to **HB 156**, by Representative Stein:

On page 10, line 13, to place an opening bracket "[" following the word "purpose" and on page 10, line 12, to place a closing bracket "]" following the word "church" and to strike through the intervening material.

Floor Amendment No. 2 to **HB 156**, by Representative Stein:

On page 10, line 13, following "church" to insert "and has been given permission in writing to carry a concealed deadly weapon by the governing body or governing person of the denomination, not that particular church, synagogue, or house of which the church, synagogue or house of worship is a member".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 70:	Representative Draud
HB 100:	Representatives Alexander, Damron, Reinhardt
HB 161:	Representative Rader
HB 179:	Representatives Collins, Draud
HB 273:	Representative Horlander
HB 304:	Representative Colter
HB 313:	Representative Cherry
HB 366:	Representative Scott
HB 405:	Representative Cherry

Announcements

The following meetings were announced:

Appropriations and Revenue, January 25, 2000, 10:30 a.m.

State Government, January 25, 2000, 12:00 noon

Seniors, Military Affairs, and Public Safety, January 25, 2000, 12:00 noon, Room 129

The following meetings were canceled:

Education, January 24, 2000

Tourism, Development, and Energy, January 25, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 25, 2000.

On the roll call the vote was **Yeas 80**--J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, Collins, Colter, Cornett, Cox, Crenshaw, Crimm, Damron, DeWeese, Draud, Feeley, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nesler, Palmer, Palumbo, Polston, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Stumbo, Tapp, Thomas, Thompson, Treesh, T. Turner, Upchurch, Vincent, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 5**--Crall, Hoover, Nunn, Stewart, Walton.

The motion to adjourn was adopted.

JANUARY 25, 2000
FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 24, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Webb moved that the rules be suspended to grant floor privileges to former Representative Gene Cline. Agreed.

Pursuant to **HR 17**, the Speaker appointed the following Committee to wait upon the Governor:

Representatives J. Arnold, Bruce, Jordan, Draud, C. Belcher, Adkins

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to grant floor privileges to special guests and to act upon a Legislative Citation. Agreed.

Representative Marcotte moved the adoption of the following **Legislative Citation No. 21**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere commendation and applause to James Whalen, Jr. for his phenomenal performance as an athlete at the University of Kentucky, which culminated in his being selected by sportswriters and broadcasters around Kentucky as the 1999 Kentucky Sportsman of the Year. Beginning his storybook football career with the Wildcats as a sophomore walk-on in 1997 and being named as the 1998 UK Walk-On of the Year by the Louisville Chapter of the National Football Foundation and Hall of Fame, this amazing athlete emerged as one of the premier tight ends in the nation during his senior year; becoming the first UK athlete to be named as a First Team All-American by the Associated Press since 1977, being named as a First Team All-Southeastern Conference selection, as a First Team All-American by the Football Writers Association of America and receiving Compaq's "Best Hustle Play of the Week in College Football" for his 57-yard touchdown catch and run against Louisville. In addition, his remarkable talent and dedication resulted in him leading the nation's tight ends with ten touchdowns, 1,019 yards gained and setting the NCAA record for most receptions in a season by a tight end with ninety catches. Inasmuch as this impressive athlete has brought high honor and acclaim to himself, his family and the University of Kentucky by the superior levels of skill and team spirit that he consistently demonstrated during his extraordinary college career, the members of this body are delighted to join Representative Gregory D. Stumbo in applauding James Whalen, Jr., for captivating football fans across this Commonwealth and nation and in extending to him best wishes for continued success as he pursues a career in the National Football League. Done in Frankfort, this twenty-fifth day of January, in the year of our Lord, Two Thousand.

Legislative Citation No. 21 was adopted without objection.

(See January 25, 2000 roll call to show co-sponsors of **Legislative Citation No. 21-Appendix**)

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 22**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Leadership McLean County. Inasmuch as the development of high caliber, well-educated citizens who are prepared to meet the challenges of tomorrow is indeed noteworthy, this fine program is applauded for its role in forming the future leaders of this great Commonwealth. Patterned after Leadership Kentucky, Leadership McLean County is designed to provide an overview of the county's involvement in agriculture, education, economic development, health and human service, law and government and

recreation. The members of this distinguished body are pleased to join Representative Jim Gooch, Jr. in commending the participants, graduates and board members of Leadership McLean County and graciously welcoming those in attendance on this day's session of the 2000 Kentucky General Assembly. Done in Frankfort, this twenty-fifth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 22 was adopted without objection.

Introduction of Bills and Resolutions

HB 457, by Representatives Ratliff, Branham, and Cornett: AN ACT relating to income taxes.

HB 458, by Representatives Ratliff, Branham, and Cornett: AN ACT relating to motor vehicle usage tax.

HB 459, by Representatives Ratliff, Branham, and Cornett: AN ACT relating to coal severance tax and declaring an emergency.

HB 460, by Representatives Ratliff, Cornett, and Weaver: AN ACT relating to income tax.

HB 461, by Representative Riggs: AN ACT relating to retirement.

HB 462, by Representative Rasche: AN ACT relating to education finance.

HB 463, by Representatives Callahan and Marcotte: AN ACT relating to alcoholic beverage licenses at automobile race tracks and declaring an emergency.

HB 464, by Representatives Cherry, Gray, and Ausmus: AN ACT relating to the Department of Corrections.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HB 456**

Appropriations and Revenue: **HB 442**

Banking and Insurance: **HB 445, HB 450, HB 453**

Education: **HB 455**

Elections and Constitutional Amendments and Intergovernmental

Affairs: **HB 454**

Health and Welfare: **HB 448, HB 449, HB 452, HCR 65**

Judiciary: **HB 446, HB 451**

Local Government: **HB 444**

State Government: **HB 447**

Transportation: **HB 443**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 236**

Health and Welfare: **HB 262, HB 427**

Report of Committees

The Committee on Health and Welfare reported **HB 10**, with Committee Substitute attached thereto, **HB 63**, with Committee Substitute attached thereto, **HB 186**, with Committee Substitute attached thereto, **HB 218**, with Committee Substitute attached thereto, **HB 268, HB 281, and HB 310** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 10, AN ACT relating to the usage of tobacco by minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) No person under the age of eighteen (18) shall possess or use tobacco products.
- (2) Any tobacco product found in the possession of a person under the age of eighteen (18) shall be confiscated by the law enforcement officer making the charge.
- (3) This section shall not apply to persons exempted as provided by KRS 438.311 and 438.330.

The Committee Substitute to **HB 10** is as follows:

HB 10, AN ACT relating to the usage of tobacco by minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) No person under the age of eighteen (18) shall possess or use tobacco products.
- (2) Any tobacco product found in the possession of a person under the age of eighteen (18) shall be confiscated and destroyed by the law enforcement officer making the charge. If the person under the age of eighteen (18) resists the confiscation of a tobacco product in his or her possession, that person may be charged with disorderly conduct under KRS 525.060.
- (3) (a) The law enforcement officer making the charge shall issue a citation and notify the court-designated worker who shall notify the parents or legal guardian of the person under the age of eighteen (18) as provided by KRS 610.200.
(b) For a second or subsequent offense, the violator shall attend and complete a smoking education or cessation program, if a program exists in the county in which the violator resides.
(c) The court-designated worker shall determine the existence of these programs and provide the information to the parents or legal guardian and to the violator. If the court-designated worker determines that the violator is eligible to attend a smoking education or cessation program, the violator shall provide proof of attendance to the court-designated worker within five (5) working days of completion of the program. If the violator fails to attend and successfully complete the smoking education or cessation program, he or she shall be penalized as provided by KRS 438.311(2).
- (4) This section shall not apply to persons exempted as provided by KRS 438.311 and 438.330.

HB 63, AN ACT relating to immunizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

- (1) "Adult day center" means a community-based facility in which adult day supervision is provided in a group setting;
- (2) "Adult day health services" means a licensed program to provide continuous supervision of the participant's medical and health needs;
- (3) "Assisted living residence" has the same meaning as in KRS 209.200;
- (4) "Commissioner" means the commissioner of the department;
- (5) "Department" means the Department for Public Health;
- (6) "Documentation" means written evidence from an individual's health care provider that indicates the date and place the individual received the influenza vaccine or the pneumococcal vaccine;
- (7) "Employee" means an individual who is employed, directly or by contract with another entity, on a part-time or full-time basis;
- (8) "Long-term care facilities" has the same meaning as in KRS 216.510; and
- (9) "Medically contraindicated" describes a situation in which the influenza or pneumococcal vaccine should not be administered to an individual because of a condition that the individual has that will be detrimental to the individual's health if the individual receives the vaccine.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

- (1) Every long-term care facility, assisted living residence, adult day center, and adult day health service shall, upon admission or employment and annually:

- (a) Inform each resident, participant, or employee of the requirements of this section and request that the resident, participant, or employee agree to be immunized against influenza virus and pneumococcal disease;
 - (b) Document the pneumococcal and influenza immunization status of each resident, participant, or employee;
 - (c) Provide or arrange for educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control; and
 - (d) Provide or arrange for immunizations against pneumococcal and influenza in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated, if the facility or service is unable to provide documentation that the resident, participant, or employee has received the appropriate immunizations.
- (2) The provisions of this section shall not apply if:
- (a) The vaccine is medically contraindicated;
 - (b) The employee, resident, or resident's legal guardian objects to the immunizations due to religious beliefs; or
 - (c) The employee or resident refuses the vaccine after being fully informed of the health risks.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner shall implement the provisions of Section 1 to 3 of this Act through the promulgation of administrative regulations under KRS Chapter 13A.
- (2) The department shall make educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations from the Centers for Disease Control available to every long-term care facility, assisted living residence, adult day center, and adult day health service.
- (3) The department shall provide vaccines, supplies, and staff necessary for the immunizations of residents of long-term care facilities, recipients of adult day center and adult day health services, and employees as provided for in Sections 1 to 3 of this Act. The department may seek reimbursement from a third-party payor or the employer of an employee of a long-term care facility, adult day center, or adult day health service program who receives an immunization, or from Medicaid, Medicare, or any third-party payor for a resident of a long-term care facility or a recipient of adult day center or adult day health services who receives an immunization.
- (4) The commissioner of the department shall report by July 15, 2003, to the Governor, the Interim Joint Committee on Health and Welfare, and the Legislative Research Commission on the number of outbreaks in long-term care facilities each year due to influenza virus and pneumococcal disease and the number of hospitalizations of long-term care facility residents each year due to influenza virus, pneumococcal disease, and associated complications.

The Committee Substitute to **HB 63** is as follows:

HB 63, AN ACT relating to immunizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

- (1) "Adult day center" means a community-based facility in which adult day supervision is provided in a group setting;
- (2) "Adult day health services" means a licensed program to provide continuous supervision of the participant's medical and health needs;
- (3) "Assisted living residence" has the same meaning as in KRS 209.200;
- (4) "Commissioner" means the commissioner of the department;
- (5) "Department" means the Department for Public Health;
- (6) "Documentation" means written evidence from an individual's health care provider that indicates the date and place the individual received the influenza vaccine or the pneumococcal vaccine;
- (7) "Long-term care facilities" has the same meaning as in KRS 216.510;
- (8) "Medically contraindicated" describes a situation in which the influenza or pneumococcal vaccine should not be administered to an individual because of a condition that the individual has that will be detrimental to the individual's health if the individual receives the vaccine; and
- (9) "Outbreak" means five (5) or more cases of serious respiratory illness with fever, coughing, and muscle aches within a ten (10) day period.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

- (1) Every long-term care facility, assisted living residence, adult day center, and adult day health service shall, upon admission and annually:
 - (a) Inform each resident or participant of the requirements of this section and request permission from the resident or participant to be immunized against influenza virus and pneumococcal disease;
 - (b) Document the pneumococcal and influenza immunization status of each resident or participant;
 - (c) Provide or arrange for educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control; and
 - (d) Provide or arrange for immunizations against pneumococcal and influenza in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated, if the facility or service is unable to provide documentation that the resident or participant has received the appropriate immunizations.
- (2) A resident or participant shall not be required to be immunized against influenza virus or pneumococcal disease if:
 - (a) The vaccine is medically contraindicated;
 - (b) The resident, participant, or the resident's or participant's legal guardian objects to the immunizations due to religious beliefs; or
 - (c) The resident or participant refuses the vaccine after being fully informed of the health risks.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

- (1) The department shall make educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations from the Centers for Disease Control available to every long-term care facility, assisted living residence, adult day center, and adult day health service.
- (2) If a long-term care facility, assisted living residence, adult day center, or adult day health service does not provide influenza or pneumococcal immunization of residents or participants, a local health department may enter into an agreement or contract to provide the vaccines, supplies, staff, and billing necessary for immunization of the residents or participants. The facility shall be required to reimburse the local health department for the cost of immunization services if the health department is not otherwise reimbursed from any other external payor. If a resident or participant has a health benefit plan defined in KRS 304.17A-005 that provides immunizations through a contract with a different health care provider, the health department shall not provide the service and shall not bill the health plan, unless the health benefit plan contracts with the local health department to provide the immunization.
- (3) The commissioner of the department shall report by July 15, 2003, to the Governor, the Interim Joint Committee on Health and Welfare, and the Legislative Research Commission on the effectiveness of the immunization program by reporting the following:
 - (a) The number of hospital admissions of persons over age sixty-five (65) with a diagnosis of pneumonia or influenza by admission source, to include long-term care facilities and other inpatient institutions. These data will be reported from existing data sources by year to track changes in admission frequency due to increased immunization of the population.
 - (b) The number of influenza virus and pneumococcal disease outbreaks in long-term care facilities during the year. Long-term care facilities shall report this information to the commissioner of the department by June 30 of each year for the previous twelve (12) months.

HB 186, AN ACT relating to registered nurses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.181 is amended to read as follows:

- (1) When it appears that a person whom a registered nurse who has successfully completed training in determination of death has been called to attend is dead, the registered nurse shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the registered nurse or a paramedic or an emergency medical technician who has responded with or after the registered nurse, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the nurse may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the registered nurse may make the actual determination and pronouncement of death. Except as provided in subsection (2), this section shall not apply to patients who are in a hospital when apparent death occurs.

- (2) *A registered nurse may make the actual determination and pronouncement of death when a patient in a hospital or nursing facility is apparently dead if the nurse's immediate supervisor has verified the death by determining that the conditions of KRS 446.400 have been met.*
- (3) In the event that a registered nurse determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.
- ~~(4)(3)~~ Any registered nursing course taught in pre-licensure programs after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Nursing by administrative regulation.
- ~~(5)(4)~~ Any registered nurse within the two (2) years following July 15, 1998, shall successfully complete in-service training required by the Board of Nursing by administrative regulation relating to determination of death and preservation of evidence.
- ~~(6)(5)~~ Any registered nurse from another jurisdiction desiring to become a registered nurse in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection ~~(5)(4)~~ of this section.
- ~~(7)(6)~~ The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the registered nurse by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a paramedic rendering care pursuant to KRS 311.660, prior to the arrival of the registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the registered nurse to cease resuscitative efforts under approved agency medical protocols.
- ~~(8)(7)~~ The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.

The Committee Substitute to **HB 186** is as follows:

HB 186, AN ACT relating to registered nurses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.181 is amended to read as follows:

- (1) When it appears that a person whom a registered nurse who has successfully completed training in determination of death has been called to attend is dead, the registered nurse shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the registered nurse or a paramedic or an emergency medical technician who has responded with or after the registered nurse, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the nurse may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400(1) *concerning patients whose circulation and respiration are not being artificially maintained* ~~[with regard to patients who have not been resuscitated]~~, the registered nurse may make the actual determination and pronouncement of death. ~~[This section shall not apply to patients who are in a hospital when apparent death occurs.]~~
- (2) *When the determination and pronouncement of death of a patient whose circulation and respiration are not being artificially maintained, as required under KRS 446.400(1), occurs in a hospital or nursing facility, that declaration may be made by a registered nurse, in addition to any other person permitted by law to determine and pronounce death. The nurse shall notify the patient's attending physician of the death in accordance with the hospital's or facility's policy.*
- (3) In the event that a registered nurse determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.
- ~~(4)(3)~~ Any registered nursing course taught in pre-licensure programs after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Nursing by administrative regulation.
- ~~(5)(4)~~ Any registered nurse within the two (2) years following July 15, 1998, shall successfully complete in-service training required by the Board of Nursing by administrative regulation relating to determination of death and preservation of evidence.
- ~~(6)(5)~~ Any registered nurse from another jurisdiction desiring to become a registered nurse in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection ~~(5)(4)~~ of this section.
- ~~(7)(6)~~ The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the registered nurse by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a paramedic rendering care pursuant to KRS 311.660, prior to the arrival of the

registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the registered nurse to cease resuscitative efforts under approved agency medical protocols.

~~(8)(7)~~ The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.

HB 218, AN ACT relating to charitable health care providers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.941 is amended to read as follows:

- (1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall be necessary for the voluntary provision of health care services by any person who:
 - (a) Is a charitable health care provider as defined in KRS 216.940; or
 - (b) Does not regularly practice in the Commonwealth.
- (2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.
- ~~(3) [Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Health Services by submitting a registration fee of fifty dollars (\$50) and filing a registration form that shall contain the following information:~~
 - ~~(a) The name, address, and phone number of the charitable health care provider;~~
 - ~~(b) Written and verifiable documentation of a current Kentucky license including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;~~
 - ~~(c) The name, principal office address, phone number, and principal officer of any sponsoring organization;~~
 - ~~(d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;~~
 - ~~(e) Information as to any medical malpractice insurance procured under KRS 304.40-075 or otherwise; and~~
 - ~~(f) Other information as the cabinet may require by administrative regulation.~~
- ~~(4)~~ The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.
- ~~(4)(5)~~ Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.
- ~~(5)(6)~~ Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Health Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.
- ~~(6)(7)~~ The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.
- ~~(7)(8)~~ The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

Section 2. KRS 304.40-075 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Charitable health care provider" means any person, agency, clinic, or facility licensed ~~[or certified]~~ by the Commonwealth ~~[or under a comparable provision of law of another state, territory, district, or possession of the United States,]~~ engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in

- general practice medicine and performing no invasive or surgical procedures;
- (b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and
 - (c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.
- (2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.
 - (3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund ~~[not to exceed the sum of twenty thousand dollars (\$20,000) and from the registration fees collected by the Cabinet for Health Services under KRS 216.941(3)]~~ upon written application for payment of the premium by the health care provider wishing to offer charitable services.
 - (b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:
 1. Name and address of the charitable health care provider;
 2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;
 3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage; **and**
 4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed; ~~and~~
 5. ~~A copy of the registration filed with the Cabinet for Health Services under KRS 216.941.]~~
 - (c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.
 - (4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance ***for the charitable health care services provided***, and that meet the terms for eligibility established pursuant to this section.
 - (5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.
 - (6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.
 - ~~[(7) The Cabinet for Health Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.~~
 - ~~[(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section to a charitable health care provider who has not registered with the Cabinet for Health Services under KRS 216.941.]~~

The Committee Substitute to **HB 218** is as follows:

HB 218, AN ACT relating to charitable health care providers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.940 is amended to read as follows:

As used in KRS 216.940 to 216.945:

- (1) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by ***the Commonwealth*** ~~[this state]~~ or under a comparable provision of law of another state, territory, district, or possession of the

United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in general practice~~[primary care]~~ and performing no invasive or surgical procedures.

- (2) "Regularly practice" means to practice for more than sixty (60) days within any ninety (90) day period.
- (3) "Sponsoring organization" means any organization, with an established relationship with a practicing entity, that organizes or arranges for the voluntary provision of health care services in the state.

Section 2. KRS 216.941 is amended to read as follows:

- (1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall be necessary for the voluntary provision of health care services by any person who:
 - (a) Is a charitable health care provider as defined in KRS 216.940; or
 - (b) Does not regularly practice in the Commonwealth.
- (2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.
- (3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Health Services by ~~submitting a registration fee of fifty dollars (\$50) and~~ filing a registration form that shall contain the following information:
 - (a) The name, address, and phone number of the charitable health care provider;
 - (b) Written and verifiable documentation of a current Kentucky license including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;
 - (c) The name, principal office address, phone number, and principal officer of any sponsoring organization;
 - (d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;
 - (e) Information as to any medical malpractice insurance procured under KRS 304.40-075 or otherwise; and
 - (f) Other information as the cabinet may require by administrative regulation.
- (4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.
- (5) Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.
- (6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Health Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.
- (7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.
- (8) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

Section 3. KRS 304.40-075 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth, or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in general practice medicine and performing no invasive or surgical procedures;

- (b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and
 - (c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.
- (2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.
- (3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund ~~not to exceed the sum of twenty thousand dollars (\$20,000) and from the registration fees collected by the Cabinet for Health Services under KRS 216.941(3))~~ upon written application for payment of the premium by the health care provider wishing to offer charitable services.
- (b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:
1. Name and address of the charitable health care provider;
 2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;
 3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;
 4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed; and
 5. A copy of the registration filed with the Cabinet for Health Services under KRS 216.941.
- (c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.
- (4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance for the charitable health care services provided, and that meet the terms for eligibility established pursuant to this section.
- (5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.
- (6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.
- (7) The Cabinet for Health Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.
- (8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section to a charitable health care provider who has not registered with the Cabinet for Health Services under KRS 216.941.

HB 268, AN ACT relating to mental health and substance abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (1) "Mental health condition" means any condition or disorder that involves mental illness or alcohol and other drug abuse as defined in KRS 222.005 and that falls under any of the diagnostic categories listed in the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition) or that is listed in the mental disorders section of the international classification of disease, or the most recent subsequent editions;

- (2) "Terms or conditions" includes day or visit limits, episodes of care, any lifetime or annual payment limits, deductibles, copayments, prescription coverage, coinsurance, out-of-pocket limits, and any other cost-sharing requirements; and
- (3) "Treatment of a mental health condition" includes, but is not limited to, any necessary outpatient, inpatient, residential, partial hospitalization, day treatment, emergency detoxification, or crisis stabilization services.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any other provision of law, a health benefit plan issued or renewed after the effective date of this Act that provides coverage for treatment of a mental health condition shall provide coverage of any treatment for a mental health condition under the same terms or conditions as provided for treatment of a physical health condition.
- (2) Expenses for mental health and physical health conditions shall be combined for purposes of meeting deductible and out-of-pocket limits required under a health benefit plan.
- (3) A health benefit plan that does not otherwise provide for management of care under the plan or that does not provide for the same degree of management of care for all health or mental health conditions may provide coverage for treatment of mental health conditions through a managed care organization.
- (4) For the purposes of a health benefit plan issued or renewed on or after the effective date of this Act, any mental health condition that is excluded from the standard health benefit plan authorized by KRS 304.17A-250 and in effect on January 1, 2000, may continue as an exclusion under this section.
- (5) A violation of this section shall constitute an act of discrimination and shall be an unfair trade practice under this chapter. The remedies provided under subtitle 12 of this chapter shall apply to conduct in violation of this section.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sixty (60) days prior to the regular session of the General Assembly in 2002, and sixty (60) days prior to each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the impact on health insurance costs of Sections 1 to 4 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Nothing in Sections 1 to 4 of this Act shall be construed as mandating coverage for mental health conditions.
- (2) The following shall be exempt from the provisions of Sections 1 to 4 of this Act:
 - (a) A group health benefit plan covering fewer than fifty (50) employees; or
 - (b) An individual health benefit plan.

HB 281, AN ACT relating to registered nurse first assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed;
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;
- (4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars (\$1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;
- (5) "Cabinet" means the Cabinet for Health Services;
- (6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:
 - (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
 - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;
- (7) "Capital expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15,

1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

- (8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (9) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (10) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;
- (11) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (12) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;
- (13) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (14) "Nonclinically-related expenditures" means expenditures for:
 - (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
 - (b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:
 - 1. Parking facilities;
 - 2. Telecommunications or telephone systems;
 - 3. Management information systems;
 - 4. Ventilation systems;
 - 5. Heating or air conditioning, or both;
 - 6. Energy conservation; or
 - 7. Administrative offices;
- (15) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;
- (16) **"Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients;**
- (17) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- ~~(18)~~~~(17)~~ "Record" means, as applicable in a particular proceeding:
 - (a) The application and any information provided by the applicant at the request of the cabinet;
 - (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

- (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
- (d) Any staff reports or recommendations prepared by or for the cabinet;
- (e) Any recommendation or decision of the cabinet;
- (f) Any testimony or documentary evidence adduced at a hearing;
- (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
- (h) Any other items required by administrative regulations promulgated by the cabinet;

(19) "Registered nurse first assistant" means one who:

(a) Holds a current active registered nurse licensure;

(b) Is certified in perioperative nursing; and

(c) Has successfully completed and holds a degree or certificate from a recognized program, which shall consist of:

1. The Association of Operating Room Nurses, Inc., Core Curriculum for the registered nurse first assistant; and

2. One (1) year of postbasic nursing study, which shall include at least forty-five (45) hours of didactic instruction and one hundred twenty (120) hours of clinical internship or its equivalent of two (2) college semesters.

A registered nurse who was certified prior to 1995 by the Certification Board of Perioperative Nursing shall not be required to fulfill the requirements of paragraph (c) of this subsection.

(20) [(18)] "Secretary" means the secretary of the Cabinet for Health Services;

(21) [(19)] "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

(22) [(20)] "Substantial change in a health service" means:

- (a) The addition of a health service for which there are review criteria and standards in the state health plan;
- (b) The addition of a health service subject to licensure under this chapter; or
- (c) The reduction or termination of a health service which had previously been provided in the health facility;

(23) [(21)] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

(24) [(22)] "Substantial change in a project" means a change made to a pending or approved project which results in:

- (a) A substantial change in a health service, except a reduction or termination of a health service;
- (b) A substantial change in bed capacity, except for reductions;
- (c) A change of location; or
- (d) An increase in costs greater than the allowable amount as prescribed by regulation;

(25) [(23)] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;

(26) [(24)] "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

(27) [(25)] "To establish" means to construct, develop, or initiate a health facility;

(28) [(26)] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

(29) [(27)] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.160 is amended to read as follows:

All health care facilities and services licensed under this chapter shall include in their policies and procedures a care delivery model based on patient needs which includes but is not limited to:

- (1) Defined roles and responsibilities of licensed and unlicensed health care personnel;
- (2) **A policy that establishes the credentialing, oversight, appointment, and reappointment of the registered nurse first assistant and for granting, renewing, and revising of the registered nurse first assistant's clinical privileges;**
- (3) A staffing plan that specifies staffing levels of licensed and unlicensed personnel required to safely and consistently meet

the performance and clinical outcomes-based standards as outlined in the facility's or service's quality improvement plan;

~~(4)~~~~(3)~~A staffing model that is developed and implemented in an interdisciplinary and collaborative manner;

~~(5)~~~~(4)~~A policy and method that incorporates at least four (4) components in an ongoing assessment done by the registered nurse of the severity of the patient's disease, patient condition, level of impairment or disability, and the specific unit patient census to meet the needs of the individual patient in a timely manner; and

~~(6)~~~~(5)~~A staffing model that supports the delivery of patient care services with an appropriate mix of licensed health care personnel that will allow them to practice according to their legal scope of practice, and for nurses, the professional standards of practice referenced in KRS Chapter 314, and facility and service policies.

If a nursing facility, intermediate care facility, or skilled care facility meets the most current state or federal regulations which address safe and consistent staffing levels of licensed and unlicensed personnel, those shall suffice for compliance with the standards in this section.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law, a health plan issued or renewed on or after July 15, 2000, that provides coverage for surgical first assisting benefits or services shall be construed as providing coverage for a registered nurse first assistant who performs services that are within the scope of practice of the registered nurse first assistant.

HB 310, AN ACT relating to medical licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.571 is amended to read as follows:

- (1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:
 - (a) Is able to understandably speak, read, and write the English language;
 - (b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;
 - (c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;
 - (d) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration and approved by the board;
 - (e) Has successfully completed, in a single sitting, an examination prescribed by the board;
 - (f) Has complied with the requirements of KRS 214.615(1); and
 - (g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.
- (2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:
 - (a) Is able to understandably speak, read, and write the English language;
 - (b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;
 - (c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;
 - (d) Has successfully completed, in a single sitting, an examination prescribed by the board;
 - (e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;
 - (f) Has satisfactorily completed at least one (1)~~three (3)~~ full year~~years~~ of prescribed courses of postgraduate training approved by the board;
 - (g) Has complied with the requirements of KRS 214.615(1); and
 - (h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.
- (3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:
 - (a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

- (b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and (h) of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;
- (c) Has complied with the requirements of KRS 214.615(1); and
- (d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.
- (4) The board may grant an applicant a limited license-institutional practice for an unrenovable period of one (1) year if the applicant:
 - (a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e), and (h) of subsection (2) of this section;
 - (b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)(d) of this section;
 - (c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; and
 - (d) Has complied with the requirements of KRS 214.615(1).
- (5) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:
 - (a) Has been endorsed in writing by the applicant's original licensing state as being currently licensed in good standing in that state; and
 - (b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.
- (6) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.
- (7) Notwithstanding any of the requirements for licensure established by subsections (1) to (6) of this section, the board may deny licensure to an applicant or the reregistrant of an inactive license without a prior hearing upon a finding that the applicant or reregistrant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.
- (8) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

The Committee on Appropriations and Revenue reported **HB 175** and **204**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 94**, with Committee Substitute attached thereto, **HB 243**, with Committee Substitute attached thereto, and **HB 317**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 94, AN ACT relating to reorganization:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.355 is amended to read as follows:

- (1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide long-term care to veterans who are residents of Kentucky.
- (2) ***There is created the Office of Kentucky Veterans' Centers within the Department of Veterans' Affairs. The office shall be headed by an executive director appointed pursuant to KRS 12.050. The office shall operate*** the Kentucky state veterans' nursing homes ~~[shall be attached to the Finance and Administration Cabinet]~~. ***The Department of Veterans' Affairs*** ~~[Finance and Administration Cabinet]~~ may promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs may seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.

Section 2. The General Assembly hereby confirms Executive Order 98-1594, issued by the Governor on December 3, 1998, to the extent that it is not otherwise confirmed by Section 1 of this Act.

The Committee Substitute to **HB 94** is as follows:

HB 94, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.355 is amended to read as follows:

- (1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide long-term care to veterans who are residents of Kentucky.
- (2) ***There is created the Office of Kentucky Veterans' Centers within the Department of Veterans' Affairs. The office shall be headed by an executive director appointed pursuant to KRS 12.050. The office shall operate the Kentucky state veterans' nursing homes [shall be attached to the Finance and Administration Cabinet]. The Department of Veterans' Affairs [Finance and Administration Cabinet] may promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.***
- (3) The Department of Veterans' Affairs may seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.

Section 2. The General Assembly hereby confirms Executive Order 98-1594, issued by the Governor on December 3, 1998, to the extent that it is not otherwise confirmed by Section 1 of this Act.

Section 3. Notwithstanding KRS 446.260, the change made in Section 1 of this Act shall be merged into the section of 2000 House Bill 139 affecting that statute, if House Bill 139 becomes law.

HB 243, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.310 is amended to read as follows:

- (1) There is created a board to be known as the Advisory Board for Veterans' Affairs, which shall be attached to the Department of Veterans' Affairs. The board shall be composed of ***the following:***
 - (a) ***1.*** Five (5) members appointed by the Governor.
 - a.*** Two (2) of ~~the said~~ members shall serve for a period of three (3) years; ~~and~~
 - b.*** Two (2) ~~of the members shall serve~~ for a period of two (2) years; ~~and~~
 - c.*** One (1) ~~of the members shall serve~~ for a period of one (1) year; and
 - 2.*** All ***five of these members*** shall serve until their successors are appointed, and with all appointments after the original appointments being for three (3) years. It is further provided that ~~the said~~ appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. ~~If [insofar as]~~ practicable, the Governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans' organizations active in Kentucky, based on size of the membership of such organizations in this state. The state headquarters of each said major veterans' organization may, from time to time, submit a list of not more than three (3) names to the Governor from which list original appointments may be made and vacancies filled in his discretion;
 - (b) ***The commissioner of the Department of Veterans' Affairs;***
 - (c) ***The executive director of the Kentucky Commission on Military Affairs; and***
 - (d) ***The adjutant general of the Commonwealth, who shall be an ex-officio, nonvoting member.***
- (2) Members of the board shall meet at least once every two (2) months at the Department of Veterans' Affairs, and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.
 - (3) Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to the Finance and Administration Cabinet regulations.
 - (4) At its first meeting the members of the board shall select a chairman, vice chairman, and secretary from among the members.
 - (5) The board shall advise the Governor and the commissioner of the Department of Veterans' Affairs on the administration of veterans' services programs.
 - (6) The board shall advise the General Assembly on matters relating to veterans' affairs.

Section 2. The General Assembly confirms Executive Order 94-6, dated December 3, 1999, to the extent it is not otherwise confirmed by this Act.

The Committee Substitute to **HB 243** is as follows:

HB 243, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.310 is amended to read as follows:

- (1) There is created a board to be known as the Advisory Board for Veterans' Affairs, which shall be attached to the Department of Veterans' Affairs.
 - (2) The board shall be composed of the following:
 - (a) Seven (7)~~five (5)~~ members appointed by the Governor;
 - (b) The executive director of the Kentucky Commission on Military Affairs; and
 - (c) The adjutant general of the Commonwealth.
 - (3) ~~Two (2) of said members shall serve for a period of three (3) years, two (2) for a period of two (2) years and one (1) for a period of one (1) year and~~ All board members appointed by the Governor shall serve until their successors are appointed, and ~~with~~ all appointments ~~after the original appointments~~ shall be~~being~~ for three (3) years. It is further provided that ~~the said~~ appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. ~~If~~~~insofar as~~ practicable, the Governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans' organizations active in Kentucky, based on size of the membership of such organizations in this state. The state headquarters of each ~~said~~ major veterans' organization may, from time to time, submit a list of not more than three (3) names to the Governor from which list original appointments may be made and vacancies filled in his discretion
 - ~~(4)~~~~(2)~~ Members of the board shall meet at least once every two (2) months at the Department of Veterans' Affairs, and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.
 - ~~(5)~~~~(3)~~ Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to the Finance and Administration Cabinet regulations.
 - ~~(6)~~~~(4)~~ At its first meeting the members of the board shall select a chairman, vice chairman, and secretary from among the members.
 - ~~(7)~~~~(5)~~ The board shall advise the Governor and the commissioner of the Department of Veterans' Affairs on the administration of veterans' services programs.
 - ~~(8)~~~~(6)~~ The board shall advise the General Assembly on matters relating to veterans' affairs.
- Section 2. The General Assembly confirms Executive Orders 97-1161, dated September 9, 1997, and 99-1588, dated December 3, 1999, to the extent they are not otherwise confirmed or superseded by this Act.
- Section 3. Notwithstanding KRS 446.260, the change made in Section 1 of this Act shall be merged into the section of 2000 House Bill 139 affecting that statute, if House Bill 139 becomes law.

HB 317, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.12-203 is amended to read as follows:

- (1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.
- (2) It shall be the purpose of the Kentucky Commission on Military Affairs to:
 - (a) Address matters of military significance to Kentucky;
 - (b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;
 - (c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;
 - (d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;
 - (e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;
 - (f) Recommend state, federal, and local economic development projects which would promote, foster, and support

economic progress through military presence in the Commonwealth;

- (g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;
 - (h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and
 - (i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and
 - (j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.
- (3) The Kentucky Commission on Military Affairs shall consist of:
- (a) The Governor, or his designated representative;
 - (b) The secretary of the Cabinet for Economic Development, or his designated representative;
 - (c) The adjutant general of the Commonwealth, or his designated representative;
 - (d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;
 - (e) The secretaries of the following cabinets, or their designees:
 - 1. Finance and Administration;
 - 2. Families and Children;
 - 3. Justice;
 - 4. Natural Resources and Environmental Protection;
 - 5. Transportation;
 - 6. Workforce Development; and
 - 7. Education, Arts, and Humanities;
 - (f) The Attorney General, or his designee;
 - (g) The commissioner of the Department of Veterans' Affairs;
 - (h) The executive director of the Kentucky Commission on Military Affairs;
 - (i) Kentucky's Civilian Aide to the Secretary of the United States Army;
 - ~~(j)(h)~~ The commander or his designee of each of the following as nonvoting, ex officio members:
 - 1. Fort Campbell;
 - 2. Fort Knox;
 - 3. United States Army Recruiting Command;
 - 4. Bluegrass Army Depot;
 - 5. Louisville District of the United States Army Corps of Engineers;
 - 6. The One Hundredth Training Division;
 - 7. Louisville/Jefferson County Redevelopment Authority; and
 - 8. Any other installation or organization with a major military mission in the Commonwealth; and
 - ~~(k)(i)~~ Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.
 - (4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.
- (5) The Governor shall appoint the chair and vice chair of the commission from the five (5) at-large members, by September 30, 1996. The chair shall call a meeting of the commission by October 31, 1996, for the purpose of creating an executive committee.
- (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chairperson of the Kentucky Commission on Military Affairs shall be appointed from among the members of the executive committee.
 - (b) The chair and vice chair of the commission shall serve as chair and vice chair of the executive committee.
 - (c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

- (6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.
- (7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.
- (8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.
- (9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.
- (10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.
- (11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission with approval of the executive committee.
- (12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 2. The General Assembly hereby confirms Executive Order 99-1592, dated December 3, 1999, to the extent it is not otherwise confirmed by this Act.

The Committee Substitute to **HB 317** is as follows:

HB 317, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.12-203 is amended to read as follows:

- (1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.
- (2) It shall be the purpose of the Kentucky Commission on Military Affairs to:
 - (a) Address matters of military significance to Kentucky;
 - (b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;
 - (c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;
 - (d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;
 - (e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;
 - (f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;
 - (g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;
 - (h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and
 - (i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and
 - (j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.
- (3) The Kentucky Commission on Military Affairs shall consist of:
 - (a) The Governor, or his designated representative;
 - (b) The secretary of the Cabinet for Economic Development, or his designated representative;

- (c) The adjutant general of the Commonwealth, or his designated representative;
 - (d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;
 - (e) The secretaries of the following cabinets, or their designees:
 - 1. Finance and Administration;
 - 2. Families and Children;
 - 3. Justice;
 - 4. Natural Resources and Environmental Protection;
 - 5. Transportation;
 - 6. Workforce Development; ~~and~~
 - 7. Education, Arts, and Humanities;
 - 8. Health Services;
 - 9. Revenue; and
 - 10. Labor;
 - (f) The Attorney General, or his designee;
 - (g) The commissioner of the Department of Veterans' Affairs or a designee;
 - (h) The executive director of the Kentucky Commission on Military Affairs or a designee;
 - (i) Kentucky's Civilian Aide to the Secretary of the United States Army;
 - (j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, to be appointed by the Legislative Research Commission;
 - (k) ~~(h)~~ The commander or ~~the~~ ~~his~~ designee of the commander of each of the following as nonvoting, ex officio members:
 - 1. Fort Campbell;
 - 2. Fort Knox;
 - 3. United States Army Recruiting Command;
 - 4. Bluegrass Army Depot;
 - 5. Louisville District of the United States Army Corps of Engineers;
 - 6. The One Hundredth Training Division;
 - 7. Technology Park of Greater Louisville ~~[Louisville/Jefferson County Redevelopment Authority];~~ and
 - 8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a ~~major~~ military mission in the Commonwealth; and
 - (l) ~~(k)~~ Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.
- (4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.
 - (5)
 - (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee. ~~[The Governor shall appoint the chair and vice chair of the commission from the five (5) at large members, by September 30, 1996. The chair shall call a meeting of the commission by October 31, 1996, for the purpose of creating an executive committee.]~~
 - (b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.
 - (c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.
 - (6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.
 - (7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet

administrative regulations.

- (8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.
- (9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.
- (10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.
- (11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission ~~[with approval of the executive committee]~~.
- (12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 2. The General Assembly hereby confirms Executive Order 99-1592, dated December 3, 1999, to the extent it is not otherwise confirmed or superseded by this Act.

The Committee on State Government reported **HB 192**, with Committee Substitute attached thereto, **HB 221**, with Committee Substitute attached thereto, **HB 222**, **HB 356**, **HB 362**, **HB 372**, **HCR 10**, **HCR 13**, **HCR 29**, and **HCR 30** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 192, AN ACT relating to state leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.111 is amended to read as follows:

- (1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).
- (2) The recommended program for leased space shall include:
 - (a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and
 - (b) For each project:
 1. The name of the agency for which space will be leased;
 2. The purpose and justification for the lease;
 3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;
 4. a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and
 - b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;
 5. The estimated cost of the lease; and
 6. The recommended sources of funds.
- (3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.
- (4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars (\$200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.
- (5) A lease with an annual rental cost exceeding two hundred thousand dollars (\$200,000) may be authorized even though it is not specifically listed in the biennial budget report and branch budget bill, subject to the following conditions and procedures:
 - (a) A lease is awarded as the result of the consolidation of leases in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or

- (b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or
- (c) *A lease with an annual rental cost of less than two hundred thousand dollars (\$200,000) is renewed or replaced for an annual rental cost that exceeds two hundred thousand dollars (\$200,000), but only if that request and subsequent renewal or replacement lease is:*
 - 1. *From the same state agency lessee whose initial lease was under two hundred thousand dollars (\$200,000);*
 - 2. *For the same or substantially the same square footage as the initial lease that was under two hundred thousand dollars (\$200,000);*
 - 3. *The result of the competitive leasing process authorized by KRS 56.803; and*
 - 4. *Effective only until June 30 of the next even numbered year unless authorized in the biennial budget report and branch budget bill; or*
- (d) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or
- ~~(e)~~ ~~(d)~~
 - 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and
 - 2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and
 - 3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.
- (6) (a) No later than five (5) business days after an advertisement for lease proposals pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet shall provide the Capital Projects and Bond Oversight Committee with a copy of the advertisement and shall state in writing to the committee that the copy is being provided in compliance with this paragraph.
- (b) Prior to final authorization of a lease pursuant to paragraph (d) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:
 - 1. The name of the agency for which space will be leased;
 - 2. The purpose and justification for the lease;
 - 3. The estimated cost of the lease;
 - 4. The source of funds; and
 - 5. Whether the requirements of paragraph (d) of subsection (5) of this section have been met.
- (c) Within thirty (30) days after the report required in paragraph (b) of this subsection has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.
- (d) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:
 - 1. Revise the proposed lease authorization to comply with the objection of the committee; or
 - 2. Cancel the proposed lease authorization; or
 - 3. Determine to proceed with the proposed lease authorization disapproved by the committee.
- (e) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.
- (f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.
- (g) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

The Committee Substitute to **HB 192** is as follows:

HB 192, AN ACT relating to state leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.111 is amended to read as follows:

- (1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).
- (2) The recommended program for leased space shall include:
 - (a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and
 - (b) For each project:
 1. The name of the agency for which space will be leased;
 2. The purpose and justification for the lease;
 3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;
 4.
 - a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and
 - b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;
 5. The estimated cost of the lease; and
 6. The recommended sources of funds.
- (3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.
- (4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars (\$200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.
- (5) A lease with an annual rental cost exceeding two hundred thousand dollars (\$200,000) may be authorized even though it is not specifically listed in the biennial budget report and branch budget bill, subject to the following conditions and procedures:
 - (a) A lease is awarded as the result of the consolidation of leases in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or
 - (b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or
 - (c) A lease with an annual rental cost of less than two hundred thousand dollars (\$200,000) is renewed or replaced for an annual rental cost that exceeds two hundred thousand dollars (\$200,000), but only if that request and subsequent renewal or replacement lease is:
 1. From the same state agency lessee whose initial lease was under two hundred thousand dollars (\$200,000);
 2. For the same or substantially the same square footage as the initial lease that was under two hundred thousand dollars (\$200,000);
 3. The result of the competitive leasing process authorized by KRS 56.803;
 4. For an annual lease payment of less than two hundred and fifty thousand dollars (\$250,000); and
 5. Effective only until June 30 of the next even numbered year unless authorized in the biennial budget report and branch budget bill; or
 - (d) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS

56.823(5) shall apply; or

- ~~(e)(4)~~ 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and
 2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and
 3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.
- (6) (a) No later than five (5) business days after an advertisement for lease proposals pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet shall provide the Capital Projects and Bond Oversight Committee with a copy of the advertisement and shall state in writing to the committee that the copy is being provided in compliance with this paragraph.
- (b) Prior to final authorization of a lease pursuant to paragraph ~~(e)(4)~~ of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:
1. The name of the agency for which space will be leased;
 2. The purpose and justification for the lease;
 3. The estimated cost of the lease;
 4. The source of funds; and
 5. Whether the requirements of paragraph ~~(e)(4)~~ of subsection (5) of this section have been met.
- (c) Within thirty (30) days after the report required in paragraph (b) of this subsection has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.
- (d) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:
1. Revise the proposed lease authorization to comply with the objection of the committee; or
 2. Cancel the proposed lease authorization; or
 3. Determine to proceed with the proposed lease authorization disapproved by the committee.
- (e) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.
- (f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.
- (g) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

HB 221, AN ACT relating to a Rails to Trails Program.

WHEREAS, the 1998 Kentucky General Assembly directed the Legislative Research Commission to establish a special interim Rails to Trails Task Force to study the feasibility, benefits, and implementation of a strategy for a Rails to Trails Program throughout the Commonwealth; and

WHEREAS, the task force appointed by the Commission has reported its findings to the Commission and the General Assembly; and

WHEREAS, the task force has recommended that a Rails to Trails Program be pursued by the Commonwealth as promoting the health, safety, and welfare of the citizenry;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

A Railtrail Development Office is hereby created within the Department for Local Government. The office shall be staffed by at least one (1) full-time professional to be known as the Commonwealth's railtrail development officer who shall have practical experience and training in the process of converting railroad corridors into nonmotorized public use trails. The

department shall insure that the office has the necessary expertise to carry out the requirements imposed upon it by this section. Among other railtrail functions and duties which may be assigned to it, the office shall carry on at least the following responsibilities:

- (1) The office shall monitor the proceedings of the United States Department of Transportation's Surface Transportation Board and shall disseminate to interested entities in Kentucky information regarding those proceedings of interest to railtrail conversion or policy in the Commonwealth. If a railroad applies to the Surface Transportation Board for authority to discontinue service over or abandon a railroad corridor in the Commonwealth, the office shall immediately notify those political subdivisions through which the corridor passes and any interested state agency of the proceedings and the potential for trail development of the corridor. The office may similarly notify any other interested entity of the proceeding. If time is of the essence and it appears that the corridor is a suitable candidate for conversion to a railtrail and that no other railtrail interested entity will be participating in the federal proceeding, the office shall take those steps necessary to cause a railbanking or public use condition to be imposed in the federal proceeding;
- (2) The office shall assist any requesting political subdivision or agency of state government with assistance on any application to the Surface Transportation Board regarding an abandoned or about to be abandoned railroad corridor, including any requests for railbanking or imposition of public use conditions;
- (3) The office shall coordinate and promote railtrail development efforts among the various agencies of state government, including the Department of Parks and the Transportation Cabinet. While this subsection does not confer upon the office any powers beyond those that it may ordinarily possess, every entity of state government shall cooperate with the office to the extent practicable under the circumstances;
- (4) The office shall furnish to requesting political subdivisions assistance in applying to available federal, state, or local funding sources for funds to be used for the process of converting railroad corridors into public use trails;
- (5) The office shall compile and disseminate to requesting parties information regarding various aspects of the process of converting railroad corridors into public use trails;
- (6) The office may apply for federal, state, or private grants or other forms of financial assistance to carry on its mission; and
- (7) The office shall annually transmit to each area development district, local historical society, local chamber of commerce, the Kentucky Association of Counties, and other pertinent local government, business, travel, or recreational organizations an annual report detailing the potential for railtrail development in the Commonwealth and the current status of and future expectations for that development.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall develop and distribute by December 31, 2000, with biennial updates thereafter, a booklet on the processes and techniques available to state government and the Commonwealth's political subdivisions for the creation and maintenance of railtrails in the Commonwealth. Upon completion of the booklet and future updates, the department shall distribute without cost that booklet or update to each county and incorporated city government. The booklet shall be made available to any other political subdivision without cost and to the public at its reproduction cost. The booklet shall be written in plain language emphasizing the practical and legal aspects of creating a railtrail, setting out deadlines, procedures, legal authority, funding sources, and the like in a manner designed to assist, from start to finish, a government official who is not an attorney in creating a railtrail. Topics covered in the booklet shall include, but not limited to:

- (1) Federal and state law relating to the creation of a railtrail including not only the process of railbanking but also other means of creating a railtrail where railbanking is no longer an option;
- (2) Potential funding sources at both the federal and state level, listing application procedures and informational contacts as to each funding source;
- (3) Identification of various financing alternatives for the purchase, construction, and maintenance of a railtrail;
- (4) Information on techniques and resources available to meet concerns of adjoining landowners as to the creation and operation of a railtrail so that the trail may be a good neighbor; and
- (5) General information on building and maintaining the railtrail with information on where and how to obtain additional sources of information.

SECTION 3. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

- (1) Any organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, agency of state government, or political subdivision or city of this state holding or acquiring a railroad corridor may preserve the corridor for future railroad use while utilizing the right-of-way in the interim for nonmotorized public recreational use by filing with the Secretary of State a "Declaration of State Railbanking", concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall contain the name and address of the filing entity, a textual description and map of the railroad corridor being railbanked, a statement that the entity accepts full responsibility for managing the corridor, for any legal liability arising out of the use of the corridor or, if the entity is immune from suit, that the entity agrees to indemnify the railroad for any liability arising out of the use of the corridor,

and for the payment of all taxes which may validly be assessed against the corridor, and a declaration that the property is being railbanked in accordance with the provisions of Kentucky law in that the corridor is held open for future restoration of rail service and that this section only grants authority for the corridor to be utilized for nonmotorized public recreational use during the interim.

- (2) Any property that is the subject of a declaration of state railbanking, including property held by easement, shall, during the period a declaration of state railbanking remains in force, be deemed to be held for a railroad use and shall not revert to any other form of ownership. Until rail service is restored over the corridor, the declaration of state railbanking shall only authorize the use of the corridor for public, nonmotorized recreational use, with associated infrastructure. However, a declaration of state railbanking shall not preclude any public utility usage of the corridor if that usage is otherwise permitted under other applicable law. For the specific purpose of allowing railbanking under this section, an easement for railroad use shall not be deemed abandoned until the person holding the easement conveys the easement to another person for a nonrailroad use, title to the easement and the underlying estate comes into the hands of the same owner by conveyance, the easement owner files a disclaimer in the office of the county clerk of the county where the property is situated disclaiming all interest in the corridor, or the easement is declared abandoned by judicial decree.
- (3) Property railbanked under this section shall be held available for purchase by any bona fide purchaser for the restoration of rail service over the property. The following requirements shall apply to any transfer of property in contemplation of the restoration of railroad service:
 - (a) The entity owning the trail shall be compensated for the fair market value of the corridor together with any improvements erected thereon. Funds received by the entity under this paragraph shall be held in trust for the benefit of the public;
 - (b) All required federal and state permits and authority to reactivate and operate a railroad over the corridor shall be obtained prior to the transfer of title;
 - (c) Adequate bond with good surety shall be posted ensuring that the railroad will be constructed, with the bond being used to cover the cost of restoring the corridor to its physical condition prior to transfer for railroad use if the requirements of this section not be met; and
 - (d) The physical infrastructure necessary to operate the railroad, including tracks, ties, frogs, signaling equipment, grade crossings, and the like, shall be in place one (1) year from the date of the transfer. Train service shall be in place and operating two (2) years, from the date of the transfer. If these timelines are not met, the corridor and all associate physical improvements thereon shall automatically forfeit to the ownership of the entity responsible for railbanking the corridor under this section.
- (4) Any person aggrieved by the act of railbanking a railroad corridor under the provisions of this section shall bring their claims within one (1) year after the declaration of state railbanking has been filed with the Kentucky Secretary of State. Any entity against whom a claim is asserted may utilize as an offset or setoff to the amount of any recovery those amounts in state or local taxes, together with interest and penalties, that have not been paid on the value of the property through which the claimant asserts title.
- (5) Any entity which caused a declaration of state railbanking to be filed shall cause the declaration to be vacated on the files on the Secretary of State upon the cessation of use of the corridor as a nonmotorized public use trail or the reactivation of railroad service over the corridor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

- (1) It is the public policy of this state to preserve railroad corridors for future railroad use. Toward this end, the Commonwealth recognizes that the salvage of tracks, ties, signaling equipment, ballast, and other items may indicate an intent to maximize return on present investment and not an intent to abandon any underlying easement for railroad or other use and that the obtaining of federal authority to discontinue service over or abandon a corridor does not necessarily indicate an intent to relinquish any property interests under state law. In any civil action to determine the status of a railroad use easement, ambiguity as to intent shall be resolved in favor of continued preservation of the corridor.
- (2) Any holder of a railroad corridor held by easement or otherwise may preserve that corridor by filing with the Secretary of State a "Preliminary Declaration of State Railbanking", concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall state the name of the entity holding the corridor, a textual description and map of the land area encompassed by the corridor, and a statement that the entity does not intend to abandon the corridor described in the declaration. The entity filing the declaration may at any later time cause that declaration to be withdrawn from the Secretary of State's files. While a preliminary declaration of state railbanking is on file with the Secretary of State, the corridor set out in the declaration shall not, regardless of the status or conclusion of any federal regulatory proceeding or the salvage of track and other material from the corridor, be deemed abandoned and shall continue to exist under Kentucky law and the property encompassed by the corridor shall not revert to any other form of ownership.

Section 5. KRS 148.690 is amended to read as follows:

- (1) The department shall review all formal declarations of railroad right-of-way abandonments by the Surface Transportation Board or other agency with jurisdiction and may review former railroad corridors for possible inclusion in the state trails system. The commissioner shall, within three (3) years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.
- (2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way, abandoned railroad corridors, or similar properties having value for trail purposes may be made available for such use; however, the commissioner shall take into consideration the rights of adjacent property owners in the development of any such procedures. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way, railroad corridors, and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use. These procedures shall include, at a minimum, that, for every railroad corridor that is the subject of a request for federal authority to discontinue service or for federal regulatory abandonment, the commissioner shall evaluate the potential of converting that corridor into a railtrail. The commissioner shall cause a preliminary review to be completed within thirty (30) days of the publication of the request for federal authority in the Federal Register. The commissioner shall cause a final review to be completed ninety (90) days after the publication of the request for federal authority in the Federal Register. The commissioner shall timely transmit copies of these reviews to the Legislative Research Commission and to the Commonwealth's railtrail development officer as they are completed. If either review indicates the possibility of converting the corridor into a railtrail, the commissioner may participate in the federal proceeding to request that the corridor be railbanked in accordance with federal law or to request the imposition of a public use condition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

- (1) The Transportation Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.
- (2) The Transportation Cabinet shall keep a record of railroad lines in the Commonwealth of Kentucky, including both lines that have been abandoned through the federal government's regulatory abandonment process and those where any railroad property interest in the railroad corridor itself has been abandoned under Kentucky law. The cabinet shall annually publish an updated map showing the location and as much information as to the status of these lines as practicable. The record shall include, in as much as possible;
 - (a) A description of the line and its location;
 - (b) The current or last railroad owner of the line;
 - (c) The operator of the line;
 - (d) The addresses and phone numbers for the owners and operators of the lines;
 - (e) Whether the owner of the line has received authority from the Federal Government to discontinue service over the line;
 - (f) Whether the owner of the line has received authority from the Federal Government to abandon the line;
 - (g) Whether the owner of the line has consummated any authority granted by the Federal Government to discontinue service over the line or to abandon the line;
 - (h) Whether the line has been railbanked under either federal or state law; and
 - (i) Any other information the cabinet deems pertinent and useful to the public.

SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The Natural Resources and Environmental Protection Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 8. KRS 171.381 is amended to read as follows:

- (1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

- (2) The duties and functions of the council shall be to:
 - (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;
 - (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;
 - (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and
 - (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.
- (3) The council may:
 - (a) Accept grants or other funds or property from any available source, public or private;
 - (b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;
 - (c) Enter into such contractual relationships as may be necessary;
 - (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;
 - (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and
 - (f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.
- (4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.
- (5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.
- (6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Education, Arts, and Humanities Cabinet. The director of the Heritage Division shall be the state historic preservation officer.
- (7) The responsibilities of the state historic preservation officer shall include:
 - (a) Development for the State Historic Preservation Program;
 - (b) Direction of a comprehensive statewide survey of historic properties;
 - (c) Nomination of historic properties to the National Register of Historic Places;
 - (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
 - (e) Cooperation in the integration of historic preservation planning with all levels of planning;
 - (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
 - (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;
 - (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
 - (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
 - (j) Development and operation of a program of public information and education concerning the preservation program;
 - (k) Administration of the grants program within the state; ~~and~~
 - (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and
 - (m) The immediate transmittal to the Department of Parks and to the Commonwealth's railtrail development officer of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory

abandonment of that railroad corridor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 276 IS CREATED TO READ AS FOLLOWS:

The Railroad Commission shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 10. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

Each railroad proposing to discontinue service over or to obtain federal authority for regulatory abandonment of a railroad corridor in the Commonwealth of Kentucky shall, in addition to those notification requirements set out in federal law, notify the Commonwealth's railtrail development officer and the trails coordinator in the Department of Parks that the railroad is attempting to obtain federal authority to do so. Notice to these two entities shall be sent concurrently with any notices, petitions, or other documents sent to the Federal Surface Transportation Board.

SECTION 11. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The Public Service Commission shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 12. KRS 411.190 is amended to read as follows:

(1) As used in this section:

- (a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.
- (b) "Owner" means the possessor of a fee, reversionary, or easement interest, a tenant, lessee, occupant, or person in control of the premises.
- (c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, horseback riding, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.
- (d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days.

(2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(3) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for such purposes.

(4) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for recreation purposes does not thereby:

- (a) Extend any assurance that the premises are safe for any purpose.
- (b) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed.
- (c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of those persons.

(5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(6) Nothing in this section limits in any way any liability which otherwise exists:

- (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.
- (b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section.

(7) Nothing in this section shall be construed to:

- (a) Create a duty of care or ground of liability for injury to persons or property.
- (b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of the land and in his activities thereon, or from the legal consequences of failure to employ such care.

SECTION 13. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Any person utilizing a railtrail shall be prohibited from straying from the trail onto adjoining private property unless the person has valid permission to do so. A person who violates this duty shall be on legal notice and shall assume the risk that the adjoining land may contain a dangerous condition, use, structure, or activity and shall be prohibited from utilizing the presence of one (1) of these things as the basis or element of a cause of action, including an application of the attractive nuisance doctrine, against an adjoining landowner. However, the provisions of this section shall not apply to a willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

Section 14. The Department for Local Government shall inventory the Commonwealth's active and abandoned rail corridors and, for the abandoned corridors, analyze the suitability of each of those corridors for railtrail conversion. Corridors inventoried shall include both common carrier and private railroads, as well as railroads which may not have been attached to the interstate transportation system. Additionally, corridors over which service has been discontinued as well as corridors potentially subject to abandonment shall be analyzed as abandoned corridors. The department shall further digitize the route of the corridors into a readily available electronic form suitable for use with commercially available geographic information system software, preferably showing the route alongside other topographic features. In conducting the inventory, the department shall, for each corridor, attempt to ascertain the legal ownership status of the corridor and the date rail service over the rail corridor ceased together with the dates of formal abandonment, and make an examination of the physical integrity of the corridor, including the presence or lack of tunnels, bridges, and culverts. The department shall make its report to the Legislative Research Commission and the Rails to Trails Program Task Force created in Section 15 of this Act no later than July 1, 2001. The report shall be provided in both printed and electronic format, together with the underlying data. The department may, through a request for proposals process, contract with a Kentucky public university for the performance of any of the responsibilities imposed upon the department by this section.

Section 15. The Legislative Research Commission shall establish a Rails to Trails Program Task Force. The task force shall be composed of fifteen members, nine of whom shall be members of the Kentucky General Assembly with Senate and House co-chairs appointed by the Legislative Research Commission. The task force shall include among the nine legislative members the Chair of the Senate Economic Development and Labor Committee, and the Chairs of both the House Economic Development Committee and the House Tourism Development and Energy Committee. The remaining six members of the task force shall be:

1. The Governor of the Commonwealth of Kentucky, or his designee;
2. The Commissioner of the Department of Parks, or his designee;
3. The Secretary of the Tourism Cabinet, or his designee;
4. The Commonwealth's railtrail development officer, or his designee;
5. A representative of the Kentucky Rails to Trails Council, to be designated by that organization; and
6. A representative of the Kentucky Farm Bureau, to be designated by that organization.

The task force shall continue to study railtrail issues, with particular emphasis on establishing actual trails within the Commonwealth. The Department for Local Government or the university to whom the assessment contract is awarded under Section 14 of this Act shall, upon request of the task force, update the task force on the progress of the work and allow task force members and staff access to records and meetings connected with the assessment. The task force shall report its findings and recommendations to the Legislative Research Commission by September 15, 2001.

The Committee Substitute to **HB 221** is as follows:

HB 221, AN ACT relating to a Rails to Trails Program.

WHEREAS, the 1998 Kentucky General Assembly directed the Legislative Research Commission to establish a special interim Rails to Trails Task Force to study the feasibility, benefits, and implementation of a strategy for a Rails to Trails Program throughout the Commonwealth; and

WHEREAS, the task force appointed by the Commission has reported its findings to the Commission and the General Assembly; and

WHEREAS, the task force has recommended that a Rails to Trails Program be pursued by the Commonwealth as promoting the health, safety, and welfare of the citizenry;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

A Railtrail Development Office is hereby created within the Department for Local Government. The office shall be staffed by at least one (1) full-time professional to be known as the Commonwealth's railtrail development officer who shall have practical experience and training in the process of converting railroad corridors into nonmotorized public use trails. The department shall insure that the office has the necessary expertise to carry out the requirements imposed upon it by this section. Among other railtrail functions and duties which may be assigned to it, the office shall carry on at least the following

responsibilities:

- (1) The office shall monitor the proceedings of the United States Department of Transportation's Surface Transportation Board and shall disseminate to interested entities in Kentucky information regarding those proceedings of interest to railtrail conversion or policy in the Commonwealth. If a railroad applies to the Surface Transportation Board for authority to discontinue service over or abandon a railroad corridor in the Commonwealth, the office shall immediately notify those political subdivisions through which the corridor passes and any interested state agency of the proceedings and the potential for trail development of the corridor. The office may similarly notify any other interested entity of the proceeding. If time is of the essence and it appears that the corridor is a suitable candidate for conversion to a railtrail and that no other railtrail interested entity will be participating in the federal proceeding, the office shall take those steps necessary to cause a railbanking or public use condition to be imposed in the federal proceeding;
- (2) The office shall assist any requesting political subdivision or agency of state government with assistance on any application to the Surface Transportation Board regarding an abandoned or about to be abandoned railroad corridor, including any requests for railbanking or imposition of public use conditions;
- (3) The office shall coordinate and promote railtrail development efforts among the various agencies of state government, including the Department of Parks and the Transportation Cabinet. While this subsection does not confer upon the office any powers beyond those that it may ordinarily possess, every entity of state government shall cooperate with the office to the extent practicable under the circumstances;
- (4) The office shall furnish to requesting political subdivisions assistance in applying to available federal, state, or local funding sources for funds to be used for the process of converting railroad corridors into public use trails;
- (5) The office shall compile and disseminate to requesting parties information regarding various aspects of the process of converting railroad corridors into public use trails;
- (6) The office may apply for federal, state, or private grants or other forms of financial assistance to carry on its mission; and
- (7) The office shall annually transmit to each area development district, local historical society, local chamber of commerce, the Kentucky Association of Counties, and other pertinent local government, business, travel, or recreational organizations an annual report detailing the potential for railtrail development in the Commonwealth and the current status of and future expectations for that development.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall develop and distribute by December 31, 2000, with biennial updates thereafter, a booklet on the processes and techniques available to state government and the Commonwealth's political subdivisions for the creation and maintenance of railtrails in the Commonwealth. Upon completion of the booklet and future updates, the department shall distribute without cost that booklet or update to each county and incorporated city government. The booklet shall be made available to any other political subdivision without cost and to the public at its reproduction cost. The booklet shall be written in plain language emphasizing the practical and legal aspects of creating a railtrail, setting out deadlines, procedures, legal authority, funding sources, and the like in a manner designed to assist, from start to finish, a government official who is not an attorney in creating a railtrail. Topics covered in the booklet shall include, but not limited to:

- (1) Federal and state law relating to the creation of a railtrail including not only the process of railbanking but also other means of creating a railtrail where railbanking is no longer an option;
- (2) Potential funding sources at both the federal and state level, listing application procedures and informational contacts as to each funding source;
- (3) Identification of various financing alternatives for the purchase, construction, and maintenance of a railtrail;
- (4) Information on techniques and resources available to meet concerns of adjoining landowners as to the creation and operation of a railtrail so that the trail may be a good neighbor; and
- (5) General information on building and maintaining the railtrail with information on where and how to obtain additional sources of information.

SECTION 3. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

- (1) Any organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, agency of state government, or political subdivision or city of this state holding or acquiring a railroad corridor may preserve the corridor for future railroad use while utilizing the right-of-way in the interim for nonmotorized public recreational use by filing with the Secretary of State a "Declaration of State Railbanking", concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall contain the name and address of the filing entity, a textual description and map of the railroad corridor being railbanked, a statement that the entity accepts full responsibility for managing the corridor, for any legal liability arising out of the use of the corridor or, if the entity is immune from suit, that the entity agrees to indemnify the railroad for any liability arising out of the use of the corridor, and for the payment of all taxes which may validly be assessed against the corridor, and a declaration that the property is being railbanked in accordance with the provisions of Kentucky law in that the corridor is held open for future

restoration of rail service and that this section only grants authority for the corridor to be utilized for nonmotorized public recreational use during the interim.

- (2) Any property that is the subject of a declaration of state railbanking, including property held by easement, shall, during the period a declaration of state railbanking remains in force, be deemed to be held for a railroad use and shall not revert to any other form of ownership. Until rail service is restored over the corridor, the declaration of state railbanking shall only authorize the use of the corridor for public, nonmotorized recreational use, with associated infrastructure. However, a declaration of state railbanking shall not preclude any public utility usage of the corridor if that usage is otherwise permitted under other applicable law. For the specific purpose of allowing railbanking under this section, an easement for railroad use shall not be deemed abandoned until the person holding the easement conveys the easement to another person for a nonrailroad use, title to the easement and the underlying estate comes into the hands of the same owner by conveyance, the easement owner files a disclaimer in the office of the county clerk of the county where the property is situated disclaiming all interest in the corridor, or the easement is declared abandoned by judicial decree.
- (3) After property is railbanked under this section, the property shall be held available for purchase by any bona fide purchaser for the restoration of rail service over the property. The following requirements shall apply to any transfer of property in contemplation of the restoration of railroad service:
 - (a) The entity that acquired the right to use the railroad corridor for a railtrail under this section or to whom that right had been subsequently transferred shall be compensated for the fair market value of the corridor together with any improvements erected thereon. Funds received by the entity under this paragraph shall be held in trust for the benefit of the public;
 - (b) All required federal and state permits and authority to reactivate and operate a railroad over the corridor shall be obtained prior to the transfer of the property for the contemplated railroad service restoration;
 - (c) Adequate bond with good surety shall be posted ensuring that the railroad will be constructed, with the bond being used to cover the cost of restoring the corridor to its physical condition prior to transfer of the railbanked corridor for the contemplated railroad service restoration; and
 - (d) The physical infrastructure necessary to operate the railroad, including tracks, ties, frogs, signaling equipment, grade crossings, and the like, shall be in place one (1) year from the date of the transfer. Train service shall be in place and operating two (2) years, from the date of the transfer. If these timelines are not met, the corridor and all associate physical improvements thereon shall automatically forfeit to the ownership of the entity responsible for railbanking the corridor under this section.
- (4) Any person aggrieved by the act of railbanking a railroad corridor under the provisions of this section shall bring their claims within one (1) year after the declaration of state railbanking has been filed with the Kentucky Secretary of State. Any entity against whom a claim is asserted may utilize as an offset or setoff to the amount of any recovery those amounts in state or local taxes, together with interest and penalties, that have not been paid on the value of the property through which the claimant asserts title.
- (5) Any entity which caused a declaration of state railbanking to be filed shall cause the declaration to be vacated on the files of the Secretary of State upon the cessation of use of the corridor as a nonmotorized public use trail or the reactivation of railroad service over the corridor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

- (1) It is the public policy of this state to preserve railroad corridors for future railroad use. Toward this end, the Commonwealth recognizes that the salvage of tracks, ties, signaling equipment, ballast, and other items may indicate an intent to maximize return on present investment and not an intent to abandon any underlying easement for railroad or other use and that the obtaining of federal authority to discontinue service over or abandon a corridor does not necessarily indicate an intent to relinquish any property interests under state law. In any civil action to determine the status of a railroad use easement, ambiguity as to intent shall be resolved in favor of continued preservation of the corridor.
- (2) Any holder of a railroad corridor held by easement or otherwise may preserve that corridor by filing with the Secretary of State a "Preliminary Declaration of State Railbanking", concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall state the name of the entity holding the corridor, a textual description and map of the land area encompassed by the corridor, and a statement that the entity does not intend to abandon the corridor described in the declaration. The entity filing the declaration may at any later time cause that declaration to be withdrawn from the Secretary of State's files. While a preliminary declaration of state railbanking is on file with the Secretary of State, the corridor set out in the declaration shall not, regardless of the status or conclusion of any federal regulatory proceeding or the salvage of track and other material from the corridor, be deemed abandoned and shall continue to exist under Kentucky law and the property encompassed by the corridor shall not revert to any other form of ownership.

Section 5. KRS 148.690 is amended to read as follows:

- (1) The department shall review all formal declarations of railroad right-of-way abandonments by the Surface Transportation Board or other agency with jurisdiction and may review former railroad corridors for possible inclusion in the state trails system. The commissioner shall, within three (3) years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.
- (2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way, abandoned railroad corridors, or similar properties having value for trail purposes may be made available for such use; however, the commissioner shall take into consideration the rights of adjacent property owners in the development of any such procedures. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way, railroad corridors, and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use. These procedures shall include, at a minimum, that, for every railroad corridor that is the subject of a request for federal authority to discontinue service or for federal regulatory abandonment, the commissioner shall evaluate the potential of converting that corridor into a railtrail. The commissioner shall cause a preliminary review to be completed within thirty (30) days of the publication of the request for federal authority in the Federal Register. The commissioner shall cause a final review to be completed ninety (90) days after the publication of the request for federal authority in the Federal Register. The commissioner shall timely transmit copies of these reviews to the Legislative Research Commission and to the Commonwealth's railtrail development officer as they are completed. If either review indicates the possibility of converting the corridor into a railtrail, the commissioner may participate in the federal proceeding to request that the corridor be railbanked in accordance with federal law or to request the imposition of a public use condition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

- (1) The Transportation Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.
- (2) The Transportation Cabinet shall keep a record of railroad lines in the Commonwealth of Kentucky, including both lines that have been abandoned through the federal government's regulatory abandonment process and those where any railroad property interest in the railroad corridor itself has been abandoned under Kentucky law. The cabinet shall annually publish an updated map showing the location and as much information as to the status of these lines as practicable. The record shall include, in as much as possible;
 - (a) A description of the line and its location;
 - (b) The current or last railroad owner of the line;
 - (c) The operator of the line;
 - (d) The addresses and phone numbers for the owners and operators of the lines;
 - (e) Whether the owner of the line has received authority from the Federal Government to discontinue service over the line;
 - (f) Whether the owner of the line has received authority from the Federal Government to abandon the line;
 - (g) Whether the owner of the line has consummated any authority granted by the Federal Government to discontinue service over the line or to abandon the line;
 - (h) Whether the line has been railbanked under either federal or state law; and
 - (i) Any other information the cabinet deems pertinent and useful to the public.

SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The Natural Resources and Environmental Protection Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 8. KRS 171.381 is amended to read as follows:

- (1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.
- (2) The duties and functions of the council shall be to:

- (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;
 - (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;
 - (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and
 - (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.
- (3) The council may:
- (a) Accept grants or other funds or property from any available source, public or private;
 - (b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;
 - (c) Enter into such contractual relationships as may be necessary;
 - (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;
 - (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and
 - (f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.
- (4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.
- (5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.
- (6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Education, Arts, and Humanities Cabinet. The director of the Heritage Division shall be the state historic preservation officer.
- (7) The responsibilities of the state historic preservation officer shall include:
- (a) Development for the State Historic Preservation Program;
 - (b) Direction of a comprehensive statewide survey of historic properties;
 - (c) Nomination of historic properties to the National Register of Historic Places;
 - (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
 - (e) Cooperation in the integration of historic preservation planning with all levels of planning;
 - (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
 - (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;
 - (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
 - (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
 - (j) Development and operation of a program of public information and education concerning the preservation program;
 - (k) Administration of the grants program within the state; ~~and~~
 - (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and
 - (m) The immediate transmittal to the Department of Parks and to the Commonwealth's railtrail development officer of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 276 IS CREATED TO READ AS FOLLOWS:

The Railroad Commission shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 10. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

Each railroad proposing to discontinue service over or to obtain federal authority for regulatory abandonment of a railroad corridor in the Commonwealth of Kentucky shall, in addition to those notification requirements set out in federal law, notify the Commonwealth's railtrail development officer and the trails coordinator in the Department of Parks that the railroad is attempting to obtain federal authority to do so.

SECTION 11. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The Public Service Commission shall immediately transmit to the Department of Parks and to the Commonwealth's railtrail development officer any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 12. KRS 411.190 is amended to read as follows:

(1) As used in this section:

- (a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.
- (b) "Owner" means the possessor of a fee, reversionary, or easement interest, a tenant, lessee, occupant, or person in control of the premises.
- (c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, horseback riding, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.
- (d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days.

- (2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.
- (3) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for such purposes.
- (4) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for recreation purposes does not thereby:
 - (a) Extend any assurance that the premises are safe for any purpose.
 - (b) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed.
 - (c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of those persons.
- (5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.
- (6) Nothing in this section limits in any way any liability which otherwise exists:
 - (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.
 - (b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section.
- (7) Nothing in this section shall be construed to:
 - (a) Create a duty of care or ground of liability for injury to persons or property.
 - (b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of the land and in his activities thereon, or from the legal consequences of failure to employ such care.

Section 13. KRS 511.090 is amended to read as follows:

- (1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.
- (2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does

so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.

- (3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to the public.
- (4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.
- (5) Private land adjoining a railtrail that is neither fenced nor otherwise enclosed shall be presumed to be land where notice against trespassing has been given by the owner of the land, and a person utilizing the railtrail shall be presumed to lack privilege or license to enter upon that land unless the person has permission from an adjoining landowner to do so.

Section 14. The Department for Local Government shall inventory the Commonwealth's active and abandoned rail corridors and, for the abandoned corridors, analyze the suitability of each of those corridors for railtrail conversion. Corridors inventoried shall include both common carrier and private railroads, as well as railroads which may not have been attached to the interstate transportation system. Additionally, corridors over which service has been discontinued as well as corridors potentially subject to abandonment shall be analyzed as abandoned corridors. The department shall further digitize the route of the corridors into a readily available electronic form suitable for use with commercially available geographic information system software, preferably showing the route alongside other topographic features. In conducting the inventory, the department shall, for each corridor, attempt to ascertain the legal ownership status of the corridor and the date rail service over the rail corridor ceased together with the dates of formal abandonment, and make an examination of the physical integrity of the corridor, including the presence or lack of tunnels, bridges, and culverts. The department shall make its report to the Legislative Research Commission and the Rails to Trails Program Task Force created in Section 15 of this Act no later than July 1, 2001. The report shall be provided in both printed and electronic format, together with the underlying data. The department may, through a request for proposals process, contract with a Kentucky public university for the performance of any of the responsibilities imposed upon the department by this section.

Section 15. The Legislative Research Commission shall establish a Rails to Trails Program Task Force. The task force shall be composed of fifteen members, nine of whom shall be members of the Kentucky General Assembly with Senate and House co-chairs appointed by the Legislative Research Commission. The task force shall include among the nine legislative members the Chair of the Senate Economic Development and Labor Committee, and the Chairs of both the House Economic Development Committee and the House Tourism Development and Energy Committee. The remaining six members of the task force shall be:

1. The Governor of the Commonwealth of Kentucky, or his designee;
2. The Commissioner of the Department of Parks, or his designee;
3. The Secretary of the Tourism Cabinet, or his designee;
4. The Commonwealth's railtrail development officer, or his designee;
5. A representative of the Kentucky Rails to Trails Council, to be designated by that organization; and
6. A representative of the Kentucky Farm Bureau, to be designated by that organization.

The task force shall continue to study railtrail issues, with particular emphasis on establishing actual trails within the Commonwealth. The Department for Local Government or the university to whom the assessment contract is awarded under Section 14 of this Act shall, upon request of the task force, update the task force on the progress of the work and allow task force members and staff access to records and meetings connected with the assessment. The task force shall report its findings and recommendations to the Legislative Research Commission by September 15, 2001.

HB 222, AN ACT relating to the designation of the Commonwealth's official steam locomotive.

WHEREAS, the Commonwealth's rich and vibrant railroad history, including the construction of America's second steam locomotive and the laying of one of the earliest railroads in the United States from Lexington to Frankfort and on to Louisville, has been and continues to be a source of pride and honor for the thousands of dedicated employees involved in making that history and to every Kentuckian who benefits from the transportation revolution that the railroads brought to this Commonwealth; and

WHEREAS, it is perhaps the steam locomotive which best exemplifies and symbolizes the historic growth of the railroad industry in the Commonwealth, continued today with the modern power of the Commonwealth's world class railroad companies; and

WHEREAS, there exists in Kentucky a special steam locomotive known affectionately far and wide as "Ol' Number 152" which annually pulls thousands of visitors behind her as she majestically strides along the high iron as the only regularly operating steam locomotive in Kentucky; and

WHEREAS, in pulling express passenger trains from Louisville to points throughout the South or serving the vibrant rural

communities of Kentucky, and in being tapped by the Louisville and Nashville Railroad to pull trains for such notable dignitaries as Theodore Roosevelt or such notorious criminals as Al Capone, steam locomotive #152 distinguished itself in its service to the people of this great nation and the citizens of this proud Commonwealth; and

WHEREAS, the volunteers of the Kentucky Railway Museum, in tirelessly laboring over thirteen years to transform steam locomotive #152 from an engine facing the scrapyard to the pride of the Commonwealth which it is today, giving of themselves in time, effort, and money, provide an example to us all of the civic pride and involvement which typify the conduct to be found in and give true meaning to the term "Commonwealth;"

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2-IS CREATED TO READ AS FOLLOWS:

Steam locomotive #152, a 4-6-2 Light Pacific, formerly of the Louisville and Nashville Railroad and restored to operation by the volunteer members of the Kentucky Railway Museum, is named and designated as the official steam locomotive of the Commonwealth of Kentucky.

HB 356, AN ACT relating to the Flood Control Advisory Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.560 is amended to read as follows:

- (1) There is hereby created the Flood Control Advisory Commission, which shall be composed of sixteen (16) members appointed by the Governor as follows:
 - (a) Two (2) state legislators, one (1) from the Senate and one (1) from the House of Representatives; two (2) mayors; and two (2) county judges/executive; and
 - (b) One (1) member from each of the following river basins: Big Sandy; Licking; Kentucky; Salt; Green; Ohio River Main Stem; Tennessee; Mississippi; and Upper Cumberland; and
 - (c) The commissioner of the Department for Local Government or commissioner's designee.
- (2) Except for the commissioner of the Department for Local Government, each member shall serve a four (4) year term, except the first commission members were appointed by the Legislative Research Commission to serve terms as follows:
 - (a) Three (3) members to serve for terms of two (2) years from the date of appointment;
 - (b) Three (3) members to serve for terms of three (3) years from the date of appointment; and
 - (c) Three (3) members to serve for terms of four (4) years from the date of appointment.
- (3) Commission members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.
- (4) Any member who misses three (3) consecutive meetings of the commission shall be deemed to have vacated the office. The commission shall declare the office vacant, and the office shall be filled as provided by subsection (3) of this section.
- (5) Two (2) of the commission members shall be elected by the commission to serve on the Water Resources Authority of Kentucky, which service shall cease with the expiration of the term of appointment on the commission, if not sooner.
- (6) The commission shall annually elect one (1) of its members as chairperson. The commission shall meet quarterly or more often if necessary. A quorum for the transaction of business shall be seven (7)~~nine (9)~~ members, and a majority of the members present at a meeting may take action on any matter legally before it.
- (7) Members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties, and shall receive a one hundred dollar (\$100) stipend per meeting attended.
- (8) The commission shall be attached for administrative purposes to the Department for Local Government which shall provide the staff services and resources necessary to support the commission in the performance of its statutory duties through the Division of Flood Control established by KRS 147A.009.
- (9) The commission shall promulgate administrative regulations as necessary to control internal procedures. The commission shall promulgate by administrative regulation the boundary for each river basin referred to in subsection (1)(b) of this section.

HB 362, AN ACT relating to the Justice Cabinet and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.030 is amended to read as follows:

The Justice Cabinet, in addition to the departments set forth in KRS 15A.020, shall consist of the following organizational units which are hereby created or reestablished:

- (1) Office of the Secretary of Justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.
- (2) Offices of Deputy Secretaries of Justice.
- (3) Office of the General Counsel.
- (4) Division of Kentucky State Medical Examiners Office.
- (5) **Office of Management, Administrative, and Legal Services, which shall be responsible for providing information systems management, investigative services, and legal services to the Office of the Secretary. The office shall be headed by an executive director appointed by the secretary in accordance with KRS 12.050.**

Section 2. Whereas the amendment set out in this Act will affect a positive influence upon the health, safety, and welfare of the citizens of the Commonwealth of Kentucky through the more efficient operation of the Kentucky Justice Cabinet and the General Assembly finds that any delay of the implementation of this Act will intolerably delay the provision of the most effective services of the Kentucky Justice Cabinet, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 372, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-01, dated December 16, 1999, which abolishes the Unclaimed Property Branch within the Division of Disbursements and Accounting and creates the Division of Unclaimed Property within the Department of the Treasury. The newly created Division of Unclaimed Property shall assume the duties and responsibilities of the abolished Unclaimed Property Branch.

HCR 10, A CONCURRENT RESOLUTION confirming the reappointment of Alayne Lackey White to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 98-1508 and letter of February 5, 1999, the Governor reappointed Alayne Lackey White and submitted her reappointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Alayne Lackey White meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the reappointment of Alayne Lackey White to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2002.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Ms. Alayne Lackey White, 1151 Red Mile Road, Suite 1B, Lexington, Kentucky 40504-2654 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601

HCR 13, A CONCURRENT RESOLUTION confirming the reappointment of Daniel Hall to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 99-1338 and letter of October 5, 1999, the Governor reappointed Daniel Hall and submitted his reappointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Daniel Hall meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the reappointment of Daniel Hall to the

Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2003.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Daniel Hall, 2200 Wynnewood Circle, Louisville, Kentucky 40222 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601

HCR 29, A CONCURRENT RESOLUTION confirming the appointment of Judy Lyne to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Legislative Research Commission to appoint five at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 8, 1998, the Legislative Research Commission appointed Judy Lyne to the Long-Term Policy Research Center Board and by letter of December 14, 1999, has submitted her appointment for the General Assembly's confirmation; and

WHEREAS, the House of Representatives and the Senate find that Judy Lyne meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Judy Lyne to the Kentucky Long-Term Policy Research Center Board for a term expiring July 13, 2002.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mrs. Charles (Judy) Lyne, 1068 Lyne-Johnson Road, Olmstead, Kentucky 42265-9132.

HCR 30, A CONCURRENT RESOLUTION confirming the reappointment of Dr. Betty Griffin to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Legislative Research Commission to appoint five at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on June 2, 1999, the Legislative Research Commission reappointed Dr. Betty Griffin to the Long-Term Policy Research Center Board and by letter of December 14, 1999, has submitted her appointment for the General Assembly's confirmation; and

WHEREAS, the House of Representatives and the Senate find that Dr. Betty Griffin meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Dr. Betty Griffin to the Kentucky Long-Term Policy Research Center Board for a term expiring July 13, 2003.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Dr. Betty Griffin, 462 McDowell Avenue, Frankfort, Kentucky 40601.

Orders of the Day

HB 76, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute No. 1 to **HB 76**. Agreed.

Representative Weaver moved the adoption of Floor Amendment No 1, to the Committee Substitute No. 1 to **HB 76**. Agreed.

Representative Weaver moved that **HB 76**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See January 25, 2000 roll call on **HB 76** - Appendix.)

HB 76, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 76**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 315** be passed.

On the roll call the vote was: **Yeas 74, Nays 19.** (See January 25, 2000 roll call on **HB 315** - Appendix.)

HB 315 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 315** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 18, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved the adoption of the Committee Substitute No. 1 to **HB 18**. Agreed.

Representative Crimm moved that **HB 18**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1.** (See January 25, 2000 roll call on **HB 18** - Appendix.)

HB 18, by way of Committee Substitute, was passed and the title agreed to.

Representative Crimm moved that the vote by which **HB 18**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 124, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute No. 1 to **HB 124**. Agreed.

Representative Yonts moved that **HB 124**, by way of Committee Substitute, be passed.

Representative Lee moved that **HB 124** be laid on the Clerk's Desk. On the roll call the vote was: **Yeas 52, Nays 42.** (See January 25, 2000 roll call that **HB 124** be laid on the Clerk's Desk-Appendix)

The motion that **HB 124** be laid on the Clerk's Desk was adopted.

HB 156, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 156** be passed.

Representative Stein moved the adoption of Floor Amendment No. 1 to **HB 156**.

Representative Treesh inquired if Floor Amendment No. 1 to **HB 156** was in order.

The Speaker ruled that the Amendment was out of order because of a drafting error.

Representative Stumbo moved that the rules be suspended to amend Floor Amendment No. 1 to **HB 156**. Agreed.

Floor Amendment No. 1 to **HB 156** was amended as follows:

Change page 10, line 11 instead of on page 10, line 13 which places an open bracket following the word purpose.

On the roll call the vote was: **Yeas 13, Nays 79.** (See January 25, 2000 roll call on Floor Amendment No. 1 as amended, to **HB 156** - Appendix.)

Floor Amendment No. 1, as amended, to **HB 156** was rejected.

Representative Jordan moved that the rules be suspended to grant floor privileges to special guests, and to act upon a Resolution. Agreed.

Representative Jordan moved the adoption of the following **HR 51**:

HR 51, A RESOLUTION adjourning the House of Representatives in honor of the greatest athlete of all time, Kentucky native Muhammad Ali.

The sounds of a clanging bell and the cheering screams of adoring fans still echo softly in our ears, invoking images of a smoky haze rising above a boxing ring, and as the haze begins to clear we see the greatest athlete of all time. That athlete is Kentucky's native son Muhammad Ali, and we gather today to recognize his unique and selfless contributions both within and without the world of sports.

WHEREAS, the Commonwealth was deeply blessed on January 17, 1942, when Marcellus and Odessa Clay of Louisville, Kentucky, became the proud parents of Cassius Marcellus Clay; and

WHEREAS, Cassius Marcellus Clay, a deeply religious man and known to all as Muhammad Ali, began his boxing career at the age of twelve in Louisville; and

WHEREAS, the amateur highlights of Muhammad Ali's prestigious career include winning the Chicago Golden Gloves Award in 1958, 1959 and 1960, as well as the National AAU Light-Heavyweight Championship in 1959 and 1960; and

WHEREAS, 1960 found Muhammad Ali selected to represent the United States on the Olympic Team by winning the Olympic Trials as a light-heavyweight and culminating at the Rome Olympics, where he won the gold medal for boxing in the Light-Heavyweight Division; and

WHEREAS, 1960 was the beginning of Muhammad Ali's impressive professional career that spanned over two decades and amassed a professional record of 56 wins, 5 defeats, 0 draws and 37 of the 56 wins coming by way of knocking out his opponents; and

WHEREAS, Muhammad Ali was a magnificently graceful man in the ring with darting hands and the quickest feet ever owned by a heavyweight; and

WHEREAS, Muhammad Ali exuded a depth of bravery never seen before or since in the world of boxing, often remaining in a bout on the strength of his chin where he absorbed terrible punishment from adversaries like Sonny Liston, Floyd Patterson, George Foreman, and Joe Frazier, punishment that would have vanquished lesser fighters yet Ali was the triumphant victor; and

WHEREAS, Muhammad Ali's power and strength came from a greater reservoir of spirituality, else it could not have been as enduring, but the majesty he commanded in the ring and the beauty he brought to the sport were pure Ali; and

WHEREAS, Muhammad Ali, who always strived for physical and professional perfection, became the first fighter to ever win the Heavyweight title three times -- a feat he accomplished at age 22, 32, and 36 -- and few are that skilled and as determined to realize their goals in life; and

WHEREAS, the accolades bestowed upon Muhammad Ali are endless, evidenced by the fact that, retired from boxing for almost twenty years, he was recently named Sports Illustrated's Athlete of the Century, Kentucky's Athlete of the Century by the Kentucky Athletic Hall of Fame, USA TODAY'S Athlete of the Century, Athlete of the Century by NBC, and Europe's Athlete of the Century; and

WHEREAS, Muhammad Ali revolutionized boxing with his style, grace, and poetry, yet his devotion to the sport and his accomplishments in the ring pale in comparison to his humanitarian work around the world, evidenced by his recognition as a "Messenger of Peace" by the United Nations; and

WHEREAS, Muhammad Ali embodies the principle that there are those who give with joy and that joy is their reward, for his love for all peoples is boundless; and

WHEREAS, Muhammad Ali has given the world so much yet knew not that he had given of himself at all; and

WHEREAS, to quote Muhammad Ali's beloved wife Lonnie, he has dedicated his life to peace, tolerance, healing and helping children -- and helping young people understand they can be anything they wish to be regardless of any obstacles; and

WHEREAS, the Commonwealth cannot adequately express the pride its citizens feel for Muhammad Ali, who is a cherished hero to millions and who luckily is our native son; and

WHEREAS, Muhammad Ali lit the Olympic torch in Atlanta during the 1996 Olympics, but he lights the yearning in the soul of every person he encounters to strive for perfection and greatness; and

WHEREAS, from Fulton County in the West to Pike County in the East, Covington in the North to Gamaliel in the South, one unanimous refrain resounds from all Kentuckians -- Thank You, Muhammad Ali, you truly are "The Greatest";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House, both individually and collectively, extend their sincere appreciation to Muhammad Ali for his lifetime role of goodwill ambassador of the Bluegrass State to the world.

Section 2. The House does hereby proclaim Muhammad Ali to be an outstanding Kentuckian and an exemplary representative of the Commonwealth.

Section 3. When the House of Representatives of the General Assembly of the Commonwealth of Kentucky adjourns this day it does so in honor of the greatest athlete of all time, Muhammad Ali.

Section 4. The Clerk of the House is directed to transmit a copy of this Resolution to Muhammad Ali.

There being no objection **HR 51** was adopted.

(See January 25, 2000 roll call to show co-sponsors of **HR 51-Appendix**)

Representative Jordan moved that a call of the roll be taken to show co-sponsors of **HR 64**. Agreed.

Representative Stein moved the adoption of Floor Amendment No. 2 to **HB 156**. On the roll call the vote was: **Yeas 19, Nays 75**. (See January 25, 2000 roll call on Floor Amendment No. 2 to **HB 156-Appendix**)

Floor Amendment No. 2 to **HB 156** was rejected.

Representative Damron moved that **HB 156** be passed.

On the roll call the vote was: **Yeas 89, Nays 8**. (See January 25, 2000 roll call on **HB 156 - Appendix**.)

Representative Damron moved that the vote by which **HB 156** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolution, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and have been posted for Committee consideration:

Local Government: **HB 444, HB 412, HB 326**

Introduction of Bills and Resolutions (Continued)

HB 465, by Representatives Riggs, Johns, Marzian, Callahan, McKee, Burch, Treesh, J. Adams, Coleman, Rasche, Colter, Hoffman, Haydon, Weaver, D. Butler, L. Clark, Gooch, R. Adams, Cherry, Crimm, Crenshaw, Bratcher, Simpson, Horlander, and Siler: AN ACT relating to boating.

HB 466, by Representatives Kerr, Callahan, and Simpson: AN ACT relating to sports.

HJR 66, by Representative Worthington: A JOINT RESOLUTION directing the Transportation Cabinet to name the new bridge on Kentucky Route 3071 near the community of Moranburg in Mason County the "John P. Loyd Memorial Bridge."

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the three day posting requirement be waived on **HB 381**. Agreed.

Representative Nesler moved the adoption of the following **Legislative Citation No. 23**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Brian "Scott" Thompson and to express deepest sympathy to his devastated family and all who share in the loss through the tragic and untimely passing of this young man, the beloved son of Allen and Kathy Hughes Thompson; brother of Derek Thompson; grandson of Barbara Hughes and the late Charles Hughes and Mary Hilda Thompson and the late Gilliam Thompson; and the cherished friend of many in the Mayfield and Murray State University communities. A 1998 graduate of Graves County High School, where he was an outstanding student and athlete, he was a member of MSU Hart Honor Society and served as vice president of community service at the Newman House. He will be forever held dear in the hearts of his family and friends and will be long remembered as a talented and generous young man of great potential. The members of this august body

join with Representative Fred Nesler in remembering Brian Scott Thompson today with profound regret for the loss of this cherished young man and in extending sincere condolences to his loving family and friends. Done in Frankfort, this twenty-fifth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 23 was adopted without objection.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **HB 315**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bather moved that his vote be changed from "yea" to "nay" on **HB 315**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that he be recorded as voting "nay" on **HB 294**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **HB 46, HB 67, HB 357, HB 56, HB 253, and HB 257**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 315**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on the motion that **HB 124** be laid on the Clerk's Desk. Agreed.

Representative Palmer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palmer moved that he be recorded as voting "yea" on **HB 18**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HR 51**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved the floor privileges be granted to Constitutional Officers and invited guests. Agreed.

The Speaker welcomed guests.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Arch Bishop Thomas E. Kelley, Roman Catholic Church, Louisville.

The President of the Senate led the members in the Pledge of Allegiance to the flag.

The President granted floor privileges to special guests.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Paul E. Patton.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House Chamber to address the Joint Session, appeared with the Governor.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

BUDGET ADDRESS

BY GOVERNOR PAUL E. PATTON

TUESDAY, JANUARY 25, 2000 - 7:00 p.m.

President Williams, Speaker Richards, and members of the General Assembly, Justice Lambert and members of the Judiciary, Governor Henry and other members of the Executive, my fellow Kentuckians.

Once more I thank you for permitting me to come before you and the people of Kentucky to discuss issues which will determine our future. My topic tonight, the budget, the way we spend the people's money during the next two years, is the most important subject we'll debate during these next three months. The fact is, where we spend our money will show where our priorities are. The budget I'm presenting tonight shows that the priorities of my administration are education, our economy, our children, our safety, our farmers, our infrastructure and the health of our people. I'll not go into great detail tonight but this summary, and this printout of our capital expenditure proposals will allow you the legislators, and the press, and interested Kentuckians a good analysis of how we propose to start Kentucky off right in the 21st century. Additional copies are available through my office.

It's not been easy to put this budget together. It's the third budget our team has prepared and let me assure you that it's the most thoroughly considered of the three, and it's been the most difficult. Our staff has been working for months. I've been personally involved since early November. We've worked the past four weekends. We've worked early in the morning. We've worked late at night. We've brought in experts, we've done all that we know to do --- and we've come a long way. Let me assure you that this is a much better budget than I thought possible two months ago. The time has now come for us to act.

Fate has given us a great opportunity. As we stand at the threshold of a new century, we share the awesome responsibility of laying the foundation upon which the next hundred years of Kentucky history will be built.

And we're faced with a critical decision. Do we move forward boldly and continue a course that will build a stronger future for our children and grandchildren, --- or do we avoid the tough decisions as we've done so often in the past, and take the easy course. --- Should that be the path we follow, we will only fall further behind as the rest of the nation aggressively pursues the benefits of a new economy.

I've made my decision. I intend to forge ahead. The time has come for the people of Kentucky to make their decision through you. Tonight I'll lay out a plan that sets a bold course for the future. It will then be your responsibility to analyze our proposals, to consider carefully each of our recommendations and to do what's best for Kentucky. Should you not agree with our proposed course of action, offer a valid alternative. --- It's not responsible to just be against. Leaders have to produce results. Those who don't have responsibility can criticize. Those who have responsibility must lead. I would ask that you give just as thorough consideration to this entire package as we have --- before you decide its validity.

What you'll decide is not the future of the people in this room. It's the future of our children. ---

This is the third time we've had the opportunity to work together to prepare a budget.

Four years ago I led a new team as we faced the daunting task of putting together an administration, presenting an action agenda, and preparing a budget.

Faced with structural imbalances caused by tax cuts which had not been accompanied by corresponding reductions in spending, we presented you a very austere budget while we went about the business of improving the administration of state government. Our Empower Kentucky program has improved the efficiency of state government by over 300 million dollars that we can document, and has at the same time, improved services to our people in many ways.

As we learned the job and got the state's financial house in order, we began to address some of the serious problems facing the Commonwealth and we asked you to meet in extraordinary session three times during that first biennium.

As we approached the second biennium of our first term, we were fully prepared to move this state ahead. --- The '98 regular session of the Kentucky General Assembly was, in my opinion, and in the opinion of many students of state government, the most productive session in the past 20 years, excepting only the '90 session when the Kentucky Education Reform Act was adopted. --- Working together, we made a difference!!!

Working together as well as any governor and General Assembly has ever worked, we made improvements in the structure of KERA. We lived up to our commitments to postsecondary education. We implemented a model juvenile justice program --- and funded it. We enacted a comprehensive reform of our criminal justice system and six significant environmental initiatives. --- And we invested in the future, the infrastructure of our society; water, sewer, school buildings, college classrooms, community parks, roads, tourist attractions, golf courses, community centers and a host of other projects to make our communities more livable, and the future of our children more bright.

Yes, we had a good session in '98. Good for the people of Kentucky and good for us. Almost all of us were re-elected, some with little or no opposition. I'd never done that before and I like it!!!

Once more we've proven that good government makes good politics. The people of Kentucky saw what we'd done and they liked it. They expect us to work together. They disdain partisan bickering. We all lose when we do it. The people are a lot smarter than they're sometimes given credit for. They understand cooperation and they understand investment, and they appreciate both. They like to see their tax money being reinvested in their community, too. And I enjoyed going around Kentucky and sharing their joy. I think you did too.

Yes, '98 was a good session, and the past two years have seen Kentucky move ahead --- and people are taking note.

Everywhere I go in national education circles, Kentucky's the talk of the town. Whether it's KERA, and our leading edge classroom technology, or our commitment to postsecondary education with programs like Bucks for Brains and the Metropolitan College, which, by the way, was selected as the number one innovation in workforce development last year!!!

The programs of excellence at our comprehensive universities and the tremendous progress being made by our community and technical colleges are being recognized by those who understand what it takes to create a modern educational system that will serve the needs of a 21st century society. Yes, whatever the topic, Kentucky's right there at the top of the chart. --- It makes me proud to be the Governor of Kentucky.

But I'm proud to be Governor of Kentucky for many different reasons because we're receiving national attention in more than just education.

Judi's leadership on women's issues like spouse abuse or child sexual abuse, our Empower Kentucky initiative, the growth of our economy, our Virtual High School; all things we can be proud of. ---Kentucky's on the move and it's our job to keep it going that way!!!!

And that's the challenge we face; as a people, and as policymakers responsible for the future of 3.9 million people. And it all starts with the budget.

I've realized for a year that the unusual circumstances that we faced two years ago wouldn't greet us as we opened this session. I've tried to let you and the people of Kentucky know that it wasn't going to be that easy to move to the next level of achievement. I've let you know, not to prepare you and the people to slow down, but rather to prepare you for the tougher road ahead.

I've already faced it. --- I've realized what we have to do to live up to our commitments; --- our commitment to postsecondary education, --- our commitment to better roads, --- our commitment to keep Kentucky safe from crime, --- our commitment to grow our economy, --- our commitment to make Kentucky better!!!

I've also realized what it's going to take to live up to our responsibilities; --- our responsibilities to our very distressed farmers, --- our very young children, our very sick people. I realize that we're going to have to work even harder to move Kentucky towards the knowledge-based economy of the future and I realize that we have to start with the budget.

As to our society in general, we're making progress, but we continue to lag the nation in too many major indicators of quality of life including per capita income, health statistics and educational attainment. To make progress, we simply must invest in the vital components of a modern society.

Tomorrow, I'll lay out the details of a Tax Fairness and Equity Plan that will bring fairness to the individual's tax burden and equity to a number of areas of business taxation. It will also position Kentucky for the future by creating a more progressive tax system that will grow at a healthy rate with the new economy. It will allow us to pay for the things we need to keep our communities safe. It will allow us to provide basic social services and improve our infrastructure, like roads and water and community facilities, and it will allow us to pay for our education establishment, the most important responsibility of state government.

The foundation of our educational system is our common schools. That's why our proposed budget increases spending for them by 211 million dollars over the biennium in recurring commitments plus 92 million dollars for new school construction. These initiatives include increasing our minority recruitment program, a middle school demonstration network, and more funding for our gifted and talented program. Our budget includes over 23 million dollars to help our teachers improve their ability to meet the ever-increasing demands of the modern classroom, the most technologically advanced classrooms in the nation. --- Let me repeat that statement one more time. --- This little state of Kentucky, our state, our children, have the most technologically advanced classrooms in the nation!!! Think of that.

It makes me proud. And it should make you proud too, because it was your actions two years ago that made it happen, that extra 88.5 million dollars that you approved in our surplus expenditure plan has made the difference, and has given our kids an edge over all the other children in the nation. --- But that advantage won't last long. We have to keep moving, because this world's changing faster than ever before.

Your actions two years ago not only provided 109 million dollars for new school construction but it also promised 92 million more dollars for this biennium. That was a unique policy decision for us, and a good one. Our proposal this year funds that promise, and recommends that we promise another 100 million dollars for the next biennium. Let's not only have the best trained teachers in the nation and the most technologically advanced classrooms in the nation, let's have the safest, most efficient, most modern schools in the nation!!!

Let's show our pride in our state, our community, our children by having as a goal, the best common school system in America!!!

And we haven't forgotten our Area Technical schools, the schools that prepare our high school students for the world of work. For those operated by local school districts, we provide equity, --- 7.7 million dollars in fact, to move toward fully reimbursing them at the same rate it costs the state to provide the same instruction in the state-operated schools. And for those districts using state-operated schools, we're removing any impediment to the participation of all students in a career-oriented curriculum. We're including 5.7 million dollars so these districts won't lose money when their students decide to learn a trade or a skill. --- We've included 3 million dollars for new equipment. And 2 million more dollars for new computer technology. All this, preparing our high school students to be more productive workers for our businesses.

Our budget lives up to our commitment to our colleges and universities by fully funding the recommendations of the Council on Postsecondary Education, the largest dollar increase in funding in the system's history!!!

Not only do we fund the needs of our research universities, we provide a biennial increase of 48 million dollars so our comprehensive universities can better serve our people in all areas of the Commonwealth. Our community and technical colleges also receive the largest biennial increase in history, 32 million dollars. --- We've truly put our money where our mouth is. And it's working. House Bill 1 has worked better than I could have ever imagined. If we'll stay the course, we will not fail!!!

As KERA has become the symbol of excellence in our common schools, as House Bill 1 has become the symbol of our commitment to postsecondary education, let us make Senate Bill 1 our battle cry for adult education. President Williams, I appreciate your leadership on this issue. The 15 million new dollars in our budget fully funds the recommendations of the Task Force on Adult Education!!!

And let us pay equal attention to our youngest citizens. Our program for early childhood health, education and development will put Kentucky among the leaders in that field too. And 55% of the 55 million new dollars for this program will flow through our local health departments, strengthening these vital public agencies. Let it never be said of our administration, or of this General Assembly, or of the people of Kentucky, that we had the opportunity and we failed to seize the moment. Let us do what we know in our hearts is right. Let us provide for our youngest children!!!

Yes, this is an education budget. Education, education, education, education. The most important function of your state government and the centerpiece of our budget proposal. But this budget does more.

It does more in many ways but it really concentrates on improving the health of our people. We've heard the cry of our public health service and we've increased our support for county health departments so they can better prevent health problems before they occur, especially for our children. Our budget includes 16 million dollars in direct support to local health departments. In addition we propose 37 million dollars in new funding for programs to be administered by the health departments. --- We've given the health departments more responsibility, and the funds to fulfill their obligations!!!

And we've fulfilled our commitment to help our less fortunate mentally challenged citizens. Our recommendation will provide 65 million more dollars to support our community living programs and reduce the waiting list of people who need these services. We will take care of our special people!!!

We increase funding for Medicaid by an average of over 13 percent and health insurance for public employees by 19 percent over the biennium and we propose relief for citizens who purchase their health insurance in the individual market. The cost of healthcare is the number one concern of many Kentuckians and we've heard their voices. We're doing all we can, all the while realizing that Kentucky, acting alone, cannot solve this problem.

We intend to conduct an intensive program aimed at our juveniles to prevent substance abuse, but let's not be hypocritical about it. Let's also make it unlawful for children to use tobacco products just as it is for them to buy them. I call on this General Assembly to join me, let's get serious about stopping underage smoking!!!

And since we're the leader in the incidence of lung cancer, let's take the lead in finding a cure. Our proposal to make Kentucky the leader in research in this field is a major effort to recognize and address the fact that, if every person in Kentucky stopped smoking today, we'd still have to deal with the problems that have been caused during these past 60 years. Let's lead in finding a cure for this most deadly of all forms of cancer!!!

While we dissuade our children from using tobacco products, let's not forget the plight of our tobacco farmers. This is going to be a bad year on the family farm. We can and will help, but we can't solve the problems of a basic farm crop which is disappearing by making direct payments to farmers. We must give them the opportunity to move to a new product; --- not

piecemeal, but together. We've already discussed a plan to do that and I'll be elaborating on that plan in the near future.

As we consider the future of our original industry, agriculture, we must pay equal attention to our future industry, marketing the intellectual ability of our people; building a knowledge-based economy. And we can do it. We are doing it, in Louisville and Lexington and northern Kentucky. And we're doing it in rural Kentucky, too, in western Kentucky; and in eastern Kentucky.

Marketing the intellectual capital of our people. If that is our future, can we have any doubt about the wisdom of investing in the education of our children? Can we in any way even consider not making that investment? Surely not. Surely Kentucky won't approach a new century on the brink of greatness and once more falter. Not while I have the responsibility of leadership, not on my watch. I trust you will have the same resolve!!!

We must expand our efforts to build a knowledge-based economy and we, along with Speaker Richards, will be discussing that proposal with you in the very near future. Thank you, Speaker Richards, for your leadership in that area.

But as we look to the new knowledge-based economy, we can't abandon another industry in trouble, coal. We propose a very modest 5 million dollar commitment this biennium for a cost-sharing program to encourage investment in the mining of thin seam and high sulfur coal, the largest reserves in our state, another proposal we'll be talking more about in the near future.

And we cannot abandon our inner cities. We've already announced our plan to create economic opportunity zones in some of our metropolitan areas, and our budget includes 2 million dollars to invest in our inner cities for economic revival.

Our Renaissance Kentucky program will invest 12 million dollars in downtown revitalization and we'll be providing 24 million dollars to help our counties pay the cost of juvenile detention. --- This is a budget which allows our state government to partner with local governments to improve the lives of our people.

Improving and protecting the lives of our people, --- the very essence of government. That's why this budget funds 50 more state police officers, the first increase in 20 years. It provides 10 million more dollars for our public defender system, and 11 million more for services to our disadvantaged children, a 37.5 million dollars increase to operate our prisons, and 20 million more dollars each year to bring equity and adequacy to our state employee compensation system.

Let me pause to thank the employees of my office and of the Office for Policy and Management. It's been almost non-stop for 2 weeks, with dozens of them working all night or sleeping over at the office. We couldn't have produced this proposal without their dedicated work. I thank all of you!!!

As we invest in the intellectual capital of our people, we must continue to invest in the infrastructure of our communities. We must invest based on what we can afford. --- Two years ago we proposed a new investment policy, a policy of investing a set percent of our annual income in long-term capital. After communicating with bond rating agencies, the percentage we settled on was 6%, and that's about the average of the past 30 years but the most important part of that policy was to select a fixed percent of income to invest in the future, and stick with it as a firm commitment. If we're spending 94% of our current income on today's needs, I think it's entirely prudent, in fact the only responsible thing to do, to invest 6% in the future. Let it not be said of us, that we prospered on the infrastructure built and paid for by those who have come before us, and we failed to do the same for our children and grandchildren. Let us not do that!!!

This budget proposes to continue to invest 6 percent of our income in the future, \$935 million in new investment, mostly for the essential services for state government.

163 million dollars for new juvenile justice and corrections facilities

92 million dollars for new schools

227 million dollars for postsecondary education

63 million dollars in renovation and expansion of the State Capitol

210 million dollars for a variety of other critical needs of state government and

200 million dollars in the infrastructure of our communities - all our communities, large and small.

We've heard the pleas of Louisville, the economic engine that drives our economy, and we're proposing the largest state government investment in Jefferson County for community development in the history of the Commonwealth, over 49 million dollars!!!

It includes the state's final 12.5 million investment in the gateway to Kentucky, the Louisville Waterfront. 7 million for the Home of the Innocents, 3 million for the African-American History Museum, 5 million for the Louisville Medical Center, 4.6 million for Iroquois Park, and a host of other investments in our premier Metropolitan Center.

And this budget makes some promises too. It sets aside 10 million dollars as a promise to become a partner with the private sector, not just here in Kentucky, but around the world, to promote the legacy of Kentucky's most prominent living

citizen, Muhammad Ali. Muhammad and his wife, Lonnie are with us tonight and I'd like them to stand and be recognized.

I intend to promote the proposed facility on the Waterfront in Louisville, around the world as a learning center, not only for our children, but for children from all across America and around the world; a center where they can realize that if you have a dream, if you work hard, if you have courage, if you have vision, you can become something, somebody, a person of value. --- Hope, inspiration, energy, --- that's what the Muhammad Ali Center will be, and it'll be in Louisville, Kentucky. Our promise is, that when the private sector matches our commitment with 40 million dollars of support, we'll add another 10 million to the first 10 million and build a first-class facility that will make Kentucky a focal point for inspiring young people. That second 10 million dollars will be in the budget that I propose to you in 2002!!!

I'm asking you to make another commitment to Louisville and our statewide travel and tourism industry, the Kentucky Fair and Exposition Center. It's in Louisville, but it's the Kentucky Fair and Exposition Center, long a leader in large conventions and trade shows, a facility we all take pride in, and a facility we've just recently invested in, but another demonstration of why we here in Kentucky can't stand still. The rest of the nation is moving on. I'm proposing a 4 million dollar appropriation to design and begin preliminary work on a new 40 to 50 million dollar investment to keep that facility world-class and competitive. It may be that it'll take two more biennia to complete that modernization, just like I'm recommending that we take a phased approach to the very worthwhile plans of the Lexington community to expand and improve their convention facilities, including Rupp Arena!!!

I just can't squeeze 30 million dollars out of a 210 million dollar statewide community development initiative for this one project. I am recommending that we commit 15 million dollars now, and with the concurrence of the Fayette County delegation, I've committed to including another 15 million dollars in the budget I submit to you in 2002. One of the reasons I can't commit more to this project is that there are other needs in our second largest city, such as the needs of the Kentucky Horse Park, a monument to our signature industry. We propose 3.3 million dollars for improvements there. And just as we've proposed a specific project to improve the inner city of Louisville, we propose 1.7 million dollars for the Johnson Community Center in Lexington. We must serve all of our people!!!

We're continuing to support the growing economy of Northern Kentucky too. A major increase in support of postsecondary education in that area is accompanied by significant investments in other projects in several cities in the three-county region.

But there's a lot more to Kentucky than the Golden Triangle. From Paducah to Pikeville, we're recommending that we also invest in the rest of Kentucky. We recommend additional funding to complete several projects we participated in two years ago; a performing arts center in Paducah, a convention center in Hopkinsville, the Paramount Theater in Ashland, an exposition center in Pikeville, a rural health center in Hazard, a challenger learning center in Elizabethtown, an industrial park in Radcliff, a community center in Mount Sterling, an artisan center in Berea, a state office building in Winchester, a community center in Versailles, a science center in Prestonsburg, entire community development initiatives in Hindman and Jenkins, the Country Music Hall of Fame in Mount Vernon, the boat dock at Kentucky Dam Village, a technical college in Clinton County, and a host of other continuing commitments.

And some new projects, too. A new Capitol Arts Center in Bowling Green and help for the Owensboro Fine Arts Museum and the Owensboro Science and History Museum and a new area technical school in Lincoln County and the purchase of an existing building in Henderson; and a host of other state investments in every region of Kentucky, in every county of Kentucky. And let me repeat that, I'm recommending new state investment to improve the infrastructure of every county in Kentucky, from fire stations to playgrounds, from city halls to courthouses, from senior citizen centers to sewers and sidewalks, all things that you, the representatives of the people, have said your people need, and that you want the state's help on.

And water. Water, water everywhere and lots of water to drink. And to bathe, and to cook, and to wash clothes and water lawns, and fill swimming pools and carry on industry and to give all our people one of the basic necessities of life, a plentiful supply of clean safe, affordable water. I said it three weeks ago and I'll say it again tonight, water isn't a great big thing unless you don't happen to have any, and then it can be a matter of life or death. --- 10% of our fellow Kentuckians don't have a good supply of water: and we're going to change that!!!

Over 200 million dollars invested in water and sewer, the largest such commitment ever in the history of Kentucky. A major step on our path to provide water to every Kentuckian in 20 years.

And roads. Our proposal includes a new program financed by 1 cent of the gasoline tax to help those counties that need the most help with paving their rural roads. The new Roads for the 21st Century funds will be distributed, not at the discretion of the Governor, but rather by a very precise formula based on the miles of unpaved roads in a county.

So Caldwell County, with 86 percent of its county roads unpaved, will get an estimated 627,103 dollars a year to pave their 265 miles of gravel roads. At a cost of \$50,000 a mile, that'll be 12.5 miles a year. In less than 16 years Caldwell County will have 80 percent of their roads paved instead of 86 percent unpaved.

Let's look at Pulaski County with 1,076 miles of unpaved roads, 76% of their 1,412 mile county road system. As well as Pulaski County's doing, they'll never get the job done. The \$2,451,572 a year that Pulaski County will get under this program

will pave 51 miles of gravel roads a year. This program will benefit the 76 counties in Kentucky that need the most help.

Grayson County gets \$1,204,000 a year.

Perry County \$1,009,000

McCreary County \$848,000

Allen County \$796,000

Breckinridge County \$735,000

Ohio County \$711,000

Morgan County \$682,000

Adair County \$665,000

Letcher County \$654,000

Jackson County \$642,000

Leslie County \$627,000

Casey County \$619,000

Clay County \$606,000

Magoffin County - \$602,000

Butler County - \$596,000

Monroe County - \$563,000

Knox County - \$552,000

Greenup County - \$543,000

Carter County - \$525,000 a year, every year.

And 55 other counties that need special help. Gravel roads are a relic of the 19th century. There's no room for them in the new Kentucky. Let's help all of our people live in the 21st century!!!

To the people of Kentucky watching tonight, I call on you to get involved. Your representatives here in the General Assembly will respond to your wishes, if only you let them know that you want a state government that can meet the needs of our people in the 21st century.

We have the 8th lowest tax burden in the nation. Do we want to be the 8th worst state?

There's no way our outmoded tax system can support a modern state government, a good school system, our colleges and universities, the basic services our people need, a quality road system, the necessities of modern life. If our goal is to have the lowest tax rate in the nation, then let's close half our prisons. Let's make people pay all the cost of their college education. Let's not put computers in our classrooms. Let's not improve our roads. Let's slowly sink to the bottom. --- Make no mistake about it. I can write a budget that doesn't require a change in our tax code. It just wouldn't be a budget that would move Kentucky forward.

It wouldn't be a budget I could support. If you want the kind of Kentucky I want, call your legislator and support our vision for 21st century Kentucky!!!

As we look to the future, as we try to move this state forward, we simply cannot afford *not* to fund the initiatives that we've proposed.

This is a budget for all Kentucky, for every Kentuckian, for the future of every Kentuckian to come.

Our honored guest tonight, Muhammad Ali, has been a tremendous source of pride for our state.

We're honored by your presence. You're an international hero. You're an American hero, a Kentucky hero!!! God be with you!!!

And Kentucky continues to produce heroes... in fact, last year was a remarkable year for young Kentuckians achieving national and international recognition.

Heather Renee French from Maysville was named Miss America.

Michael Lanham, a 19-year old from Gravel Switch and a student at Centre College was named a Rhodes Scholar.

Hyden's Tim Couch was the number one draft pick for the NFL.

And Tori Murden-McClure, from Louisville, was the first woman ever to row solo across the Atlantic.

If these young Kentuckians are the future of our state, then the future is indeed bright. People in every corner of the Commonwealth have watched with pride as individuals like Muhammad Ali and these young Kentucky heroes have become symbols of the American dream. They stand as reminders that every Kentuckian has the potential to be a hero if only we give them the opportunity. What each of these individuals have in common is a foundation in the values that have been this state's greatest strength. A commitment to family, a special spirit of determination to succeed, a pride in individual accomplishment.

It is to that special Kentucky spirit that we must dedicate our efforts in these coming weeks. We must never lose sight of the fact that this budget impacts the lives and the dreams of our people and their children. Their futures are in our hands as we lay the foundation for the next 100 years. Let us not be found wanting.

Good night. God bless you.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the chair.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 150**, by Representative J. Adams:

On page 3, line 11, after "county," by inserting and underlining, "In the case of an urban-county government, the committee shall include a representative of the urban-county government appointed by the executive authority"; and

On page 3, line 19, after "county," by inserting and underlining, "In the case of an urban-county government, the executive authority shall have the authority to determine the number, composition and membership of the committee"; and

On page 3, line 20, after "members," by inserting and underlining, "All meetings and records of the infrastructure planning committee shall be held and maintained in compliance with the open meetings and records requirements of KRS 61.805 to 61.884, and a public meeting shall be scheduled and advertised for receiving public comments on a draft of any infrastructure development plan or plan update"; and

On page 4, line 1, after "committee," the first time it appears, by inserting and underlining, "In the case of an urban-county government, the executive authority shall appoint the members of the committee within thirty (30) days of the effective date of this Act, and shall call the organizational meeting of the committee within forty-five (45) days of the appointment of the members of the committee"; and

On page 4, line 13, after "require," by inserting and underlining, "In the case of urban-county governments, two (2) representatives shall be chosen from the membership of the urban-county's infrastructure planning committee. In addition, each county, city, and urban-county shall have the right to have a representative on the advisory regional development council for each unit of population within its jurisdiction in excess of fifty thousand (50,000) people"; and

On page 4, line 16, after "operation," by inserting and underlining, ", except that it shall adopt a rule that it shall take a vote of the majority of the entire membership of the committee to take action on matters before it"; and

On page 4, line 24, after "recommendations," by inserting and underlining, "and any infrastructure development plan developed by a local government within each county in the district"; and

On page 4, line 27, by deleting "and"; and

On page 5, line 2, after "process," by inserting and underlining, "; and

(d) Schedule a public meeting in each county in the district on the draft of each regional infrastructure development plan or updated plan, in order to receive public comment"; and

On page 5, line 15, after "plans," by inserting and underlining, "In making a final decision regarding a license, permit, or other final action approving infrastructure development activities by a government entity, a brief written statement concerning the consistency of the agency decision with the plan, of if inconsistent, an explanation of the reason for the inconsistency shall be provided. Nothing in this section shall be construed as requiring an agency to make a decision that is inconsistent with federal, state, or local laws, regulations, or policies".

Floor Amendment No. 2 to **HB 181**, by Representative Riggs:

On page 1, line 17, after the words "National Guard" insert "or Reserve Component"; and

On page 3, line 22, after the words "National Guard" insert "or Reserve Component"; and

On page 5, line 1, after the words "National Guard or" insert "Reserve Component"; and
On page 5, line 3, by bracketing and striking through "with the National Guard".

Floor Amendment No. 3 to Committee Substitute to **HB 115**, by Representative Wayne:

On page 1, line 15, by deleting all the language on that line and inserting in lieu thereof "All"; and
On page 1, line 16, by deleting "thirty (30)" and inserting in lieu thereof "sixty (60)"; and
On page 1, line 21, by deleting "three and one-half (3 1/2)" and inserting in lieu thereof "four (4)"; and
On page 1, lines 23 and 24, by deleting "three and one-half (3 1/2)" and inserting in lieu thereof "four (4)"; and
On page 2, line 7, after the word "inspector" insert the words ", the state fire marshal,"; and
On page 2, line 9, by deleting "the requirements set forth in" and inserting in lieu thereof "subsections (1) and (2) of".

Floor Amendment No. 2 to **HB 70**, by Representative Stein:

On page 1, delete lines 1 to 17 in their entirety and insert in lieu thereof:

"Section 1. KRS 344.130 is amended to read as follows:

As used in this chapter, unless the context requires otherwise, ~~[-]~~

"place of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds, ~~[-]~~ except that:

- (1) A private club is not a "place of public accommodation, resort, or amusement" if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; ~~and~~
- (2) "Place of public accommodation, resort, or amusement" does not include a rooming or boarding house containing not more than one (1) room for rent or hire and which is within a building occupied by the proprietor as his residence ~~[-]~~; and
- (3) "Place of public accommodation, resort, or amusement" does not include a religious organization and its religious activities and religious facilities if the application of KRS 344.120 would not be consistent with the religious tenets of that organization. In applying this subsection, the commission shall consider all relevant evidence in order to determine whether:
 - (a) The organization in question is a bona fide religious organization; and
 - (b) The specific accommodation sought would violate the religious tenets of that organization.
- (4) The commission shall render advisory opinions on the application of subsection (3) of this section on its own initiative or upon a signed written request by a religious organization. All advisory opinions issued under this subsection shall be issued in writing and made available to the public."

Floor Amendment No. 1 to Committee Substitute to **HB 204**, by Representative Nunn:

On page 2, line 18, after "agency" by bracketing and striking through "or Kentucky State Police"; and

On page 2, line 20, after ".", by inserting "The local law enforcement agency, county attorney, or Commonwealth's attorney may request assistance in the investigation from the Kentucky State Police."

Floor Amendment No. 2 to Committee Substitute to **HB 204**, by Representative Nunn:

On page 2, line 15, after "by", by deleting "a person";
On page 2, lines 19 and 20, after "contents and", by deleting "the law enforcement agency or prosecutor";
On page 2, line 20, before "shall", by deleting the brackets and strikethroughs; and
On page 2, line 21, after "representative" by deleting "shall" and by deleting the brackets and strikethroughs.

Floor Amendment No. 4 to Committee Substitute to **HB 115**, by Representative Wayne:

On page 5, after line 15, by inserting the following:

"Section 7. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following

restrictions shall govern the expenditure of funds from the public school fund:

- (1) The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year.
- (2) The Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by the lesser of:
 - (a) The percent increase in the average annual consumer price index for all urban consumers between the two (2) most recent calendar years, as published by the United States Bureau of Labor Statistics and stated in the statutory budget memorandum and the biennial budget report; or
 - (b) The percent increase of the base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320.
- (3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.
- (4) (a) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:
 1. ~~(a)~~ For direct payment of construction costs;
 2. ~~(b)~~ For debt service on voted and funding bonds;
 3. ~~(c)~~ For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;
 4. ~~(d)~~ For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and
 5. ~~(e)~~ As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(b) *Notwithstanding any other provision to the contrary, capital outlay funds may be expended by each district to comply with Sections 1 to 5 of this Act without regard to the district's categorical priorities listed in the approved facilities plan.*
- (5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall be based on the following:
 - (a) The energy conservation measures shall include facility alteration;
 - (b) The energy conservation measures shall be identified in the district's approved facility plan;
 - (c) The current facility systems are consuming excess maintenance and operating costs;
 - (d) The savings generated by the energy conservation measures are guaranteed;
 - (e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
 - (f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.
- (6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.
- (7) If a survey shows that a school district has no capital outlay needs as shown in ~~paragraphs (a), (b), (c), and (d) of~~ subsection (4)(a) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

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- (8) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.
- (a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.
 - (b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.
 - (c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.
- (9) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

Section 8. KRS 157.440 is amended to read as follows:

- (1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection (12)(a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.
- (b) To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents (\$0.05) shall be in addition to the thirty cents (\$0.30) required by KRS 160.470(12) and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents (\$0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420. **Notwithstanding any other provision to the contrary, the board of education of each school district may commit the funds toward expenses necessary to comply with Sections 1 to 5 of this Act without regard to the district's categorical priorities listed in the approved facilities plan.**
- (c) The board of education of each school district may contribute the levy equivalent tax rate of five cents (\$0.05) and equalization funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:
 1. Energy conservation measures shall include facility alteration;
 2. Energy conservation measures shall be identified in the district's approved facility plan pursuant to KRS 157.420;
 3. The current facility systems are consuming excess maintenance and operating costs;
 4. The savings generated by the energy conservation measures are guaranteed;
 5. The levy equivalent tax rate of five cents (\$0.05) and equalization funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
 6. The equipment that is replaced has exceeded its useful life as determined by a life cycle cost analysis.
- (d) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(10) or to the recall provisions of KRS 160.470(11).
- (e) A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky

Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

- (2) (a) A district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of this subsection, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.
- (b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county clerk, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.
- (3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.
- (4) Notwithstanding the limitations contained in subsection (3) of this section, no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.
- (5) The chief state school officer shall certify the compensating tax rate to the levying authorities."

Floor Amendment No. 3 to **HB 70**, by Representative Kerr:

On page 1, delete lines 1 to 17 in their entirety and insert in lieu thereof:

"Section 1. KRS 344.130 is amended to read as follows:

As used in this chapter, unless the context requires otherwise, ~~{ }~~

"place of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds, ~~{ }~~ except that:

- (1) A private club is not a "place of public accommodation, resort, or amusement" if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; ~~{and}~~
- (2) "Place of public accommodation, resort, or amusement" does not include a rooming or boarding house containing not more than one (1) room for rent or hire and which is within a building occupied by the proprietor as his residence; and
- (3) "Place of public accommodation, resort, or amusement" does not include a religious organization and its activities and facilities if the application of KRS 344.120 would not be consistent with the religious tenets of the organization, provided that the organization shall not discriminate on the basis of disability, race, color, or national origin."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 57: Representatives Anderson, Bratcher, Crimm, Treesh, J. Turner

HB 100: Representative Vincent

HB 179: Representatives Bather, Buckingham, Cherry, Horlander, McKee,

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Palmer, Reinhardt, Riner, Simpson

HB 231: Representative Cornett

HB 236: Representatives Johns, Kerr, Rader

HB 267: Representatives Ballard, Coleman, Damron, Reinhardt

HB 293: Representative Cherry

HB 295: Representative Cherry

HB 320: Representative Cherry

HB 349: Representative L. Clark

HB 437: Representative L. Clark

HB 439: Representatives Cherry, L. Clark, Crimm, Feeley, Lee, Marcotte, Wilkey

HB 443: Representative Vincent

The following members filed requests to have their names withdrawn as co-sponsors of Bills under rules previously suspended:

HB 123: Representatives Ratliff, Webb

HB 437: Representative L. Belcher

HB 438: Representatives J. Adams, Bowling, Haydon

Announcements

The following meetings were announced:

Budget Review Subcommittee on General Government, January 26, 2000, 10:00 a.m., Room 125

Education, January 26, 2000, 8:58 a.m.

Elections, Constitutional Amendments, and Governmental Affairs, January 26, 2000, 10:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 26, 2000.

On the roll call the vote was **Yeas 81**--R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ausmus, Barrows, Baugh, L. Belcher, Bowling, Branham, Bratcher, Bruce, Buckingham, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, P. Clark, Collins, Colter, Cornett, Crenshaw, Crimm, DeWeese, Draud, Feeley, Fischer, Ford, Gooch, Graham, Gray, Haydon, Hoffman, Hoover, Horlander, Johns, Jordan, Kerr, Lee, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nesler, Nunn, Palmer, Palumbo, Polston, Rader, Rasche, Ratliff, Richards, Riggs, Scott, Siler, Sims, Stacy, Stein, Stumbo, Thomas, Thompson, Treesh, J. Turner, T. Turner, Upchurch, Walton, Wayne, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 4**--Crall, Geveden, Stewart, Tapp.

The motion to adjourn was adopted without objection.

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The House was called to order by Speaker Richards.

Prayer by Brother Joe Adams, Chaplain Ministries, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of January 25, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 14, SB 40, SB 57, SCR 15, SCR 20, HB 97, and HB 99.** (Time 2:10 p.m.)

Introduction of Bills and Resolutions

HB 467, by Representative Coleman: AN ACT relating to student dropout prevention.

HB 468, by Representative Coleman: AN ACT relating to control of fraud and abuse in medical assistance programs under Title XIX of the Federal Social Security Act.

HB 469, by Representative Ratliff: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemption from taxation.

HB 470, by Representative Ratliff: AN ACT relating to revenue and taxation.

HB 471, by Representative Yonts: AN ACT changing the classification of the City of White Plains in Hopkins County.

HB 472, by Representatives D. Butler, Haydon, Burch, Miller, and Jenkins: AN ACT relating to distilled spirits and wine.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 457, HB 458, HB 459, HB 460**

Education: **HB 462**

Licensing and Occupations: **HB 463, HB 466**

State Government: **HB 461, HB 464**

Transportation: **HB 465, HJR 66**

Report of Committees

The Committee on Labor and Industry reported **HB 12** and **HB 365** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 12, AN ACT relating to employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337.420 TO 337.433 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that:

(a) Despite federal and state laws banning discrimination in employment and pay, in both the private and public sector, wage differentials persist between women and men and between minorities and nonminorities, in the

same jobs, and in jobs that are dissimilar but that require equivalent composites of skill, effort, responsibility and working conditions;

(b) The existence of wage differentials:

1. Depresses wages and living standards for employees necessary for their health and efficiency;
2. Reduces family incomes and contributes to the higher poverty rates among female-headed and minority households;
3. Prevents the maximum utilization of the available labor resources;
4. Tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;
5. Constitutes an unfair method of competition; and
6. Violates states public policy against discrimination;

(c) Discrimination in wage-setting practices has played a role in depressing wages for women and minorities generally;

(d) Many individuals work in occupations that are dominated by individuals of their same sex, race, or national origin, and discrimination in hiring, job assignment and promotion has played a role in establishing and maintaining segregated work forces;

(e) Eliminating discrimination in compensation based on sex, race, and national origin would have positive effects, including:

1. Providing a solution to problems in the economy created by discriminatory wage differentials;
2. Reducing the number of working women and people of color earning low wages, thereby lowering their incidence of poverty during normal working years and in retirement; and
3. Promoting stable families by raising family incomes.

(2) It is the purpose of KRS 37.420 to 337.433 to correct and as rapidly as practicable to eliminate discriminatory wage practices based on sex, race, or national origin.

Section 2. KRS 337.420 is amended to read as follows:

As used in KRS 337.420 to 337.433 and 337.990(14), unless the context requires otherwise:

- (1) "Employee" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions, *whether working full-time or part-time, and any temporary employee employed by an employer for a period of at least three (3) months. Employee shall not include any individual employed by his parents, spouse, or child.***
- (2) "Employer" means a person who has two (2) or more employees within the state in each of ~~twenty (20)~~ twelve (12) or more calendar weeks in the current or preceding calendar year and an agent of such a person.**
- (3) "Wage rate" means all compensation for employment, including *but not limited to base pay, bonuses, commissions, awards, tips, or various forms of nonmonetary compensation if provided in lieu of or in addition to monetary compensation and that have economic value to an employee*~~[payment in kind]~~ and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and 337.990(14).**
- (4) "Employ" includes to suffer or permit to work.**
- (5) "Occupation" includes any industry, trade, business, or branch thereof, or any employment or class of employment.**
- (6) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of labor.**
- (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.**
- (8) "Equivalent jobs" means jobs or occupations that are:**
 - (a) Equal; or**
 - (b) Dissimilar but whose requirements are equivalent when viewed as a composite of skills, effort, responsibility, and working conditions.**
- (9) "Labor organization" means any organization that exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms of conditions of employment, or of other mutual aid or protection in connection with employment.**
- (10) "Market rates" means the rates that employers within a prescribed geographic area actually pay, or are reported to pay, for specific jobs, as determined by formal or informal surveys, wage studies, or other means.**

Section 3. KRS 337.423 is amended to read as follows:

- (1) It shall be an unlawful employment practice for an employer to discriminate among employees on the basis of sex,**

race, or national origin by:

- (a) Paying wages to employees at a rate less than the rate paid to employees of the opposite sex or of a different race or national origin for work in equivalent jobs, or
 - (b) Paying wages to employees in a job that is dominated by employees of a particular sex, race, or national origin at a rate less than the rate at which the employer pays to employees in another job that is dominated by employees of the opposite sex or of a different race or national origin, for work on equivalent jobs~~[No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, shall not be included within this prohibition. Nothing in KRS 337.420 to 337.433 and 337.990(14) shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.990(14) and when the employer files with the commissioner of the Department of Workplace Standards a statement that the employer is covered by the federal Fair Labor Standards Act of 1938, as amended].~~
- (2) Notwithstanding subsection(1) (a) of this section, it shall not be an unlawful employment practice for an employer to pay different wage rates to employees, where the payments are made pursuant to:
- (a) A bona fide seniority or merit system;
 - (b) A system that measures earnings by quantity or quality of production; or
 - (c) Any bona fide factor other than sex, race, or national origin, provided, however, that wage differentials based on varying market rates for equivalent jobs or the differing economic benefits to the employer of equivalent jobs shall not be considered differentials based on bona fide factors other than sex, race or national origin.
- (3) An employer who is paying ~~wages~~~~[a wage differential]~~ in violation of ~~this section~~~~[KRS 337.420 to 337.433 and 337.990(14)]~~ shall not, in order to comply with ~~the provision of this section~~~~[it]~~, reduce the wage~~[rates]~~ of any employee.
- ~~(4)~~~~[(3)]~~ No labor organization or its agents representing employees of an employer having employees subject to any provision of this chapter~~[person]~~ shall cause or attempt to cause ~~the~~~~[an]~~ employer to discriminate against ~~an~~~~[any]~~ employee in violation of ~~this section~~~~[KRS 337.420 to 337.433 and 337.990(14)]~~.
- (5) The commissioner shall promulgate administrative regulations in accordance with KRS Chapter 13A specifying the criteria for determining whether a job is dominated by employees of a particular sex, race, or national origin. Criteria shall include, but not be limited to, factors such as whether the job has ever been formally classified as or traditionally considered to be a "male" or "female" or "white" or "minority" job; whether there is a history of discrimination against women or people of color with regard to wages, assignment or access to jobs, or other terms and conditions of employment; and the demographic composition of the work force in equivalent jobs. Administrative regulations promulgated pursuant to this subsection shall not include a list of jobs.
- (6) Not later than one hundred twenty days (120) after the effective date of this Act, the commissioner shall review the administrative regulations promulgated under KRS 337.425 and promulgate revisions as necessary to carry out the requirements of this section and Section 4 of this Act.
- (7) It shall be an unlawful employment practice for an employer:
- (a) To take adverse actions or otherwise discriminate against any individual because the individual has opposed any act or practice made unlawful by KRS 337.420 to 337.433, has sought to enforce rights protected under those sections, or has testified, assisted, or participated in any manner in an investigation, hearing, or other proceeding to enforce KRS 337.420 to 337.433; or
 - (b) To discharge or in any other manner discriminate against, coerce, intimidate, threaten, or interfere with any employee or any other person because the employee inquired about, disclosed, compared, or otherwise discussed the employee's wages or the wages of any other employee, or because the employee exercised, enjoyed, aided, or encouraged any other person to exercise or enjoy any right granted or protected by KRS 337.420 to 337.433~~[(4)]~~
~~_____ No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.990(14)].~~

SECTION 4. A NEW SECTION OF KRS CHAPTER 337.420 TO 337.433 IS CREATED TO READ AS FOLLOWS:

- (1) Upon commencement of an individual's employment and at least annually thereafter, every employer subject to KRS 337.420 to 337.433 shall provide to each employee a written statement sufficient to inform the employee of that employee's job title, wage rate, and how the wage is calculated. This notice shall be supplemented whenever an employee is promoted or reassigned to a different position with the employer, provided, however, that the employer is not required to issue supplemental notifications for temporary reassignments that are no greater than three (3) months in duration.
- (2) Every employer subject to KRS 337.420 to 337.433 shall make and preserve records that document the wages paid to

employees and that document and support the method, system, calculations, and other bases used to establish, adjust, and determine the wage rates paid to the employer's employees. Every employer subject to KRS 337.420 to 337.433 shall preserve records prescribed by administrative regulations promulgated by the commissioner.

(3) The administrative regulations promulgated under Section 3 of this Act, relating to the form of reports required by this section, shall provide for protection of the confidentiality of employees and shall expressly require that reports shall not include the names or other identifying information from which readers could discern the identities of employees. The administrative regulations may also identify circumstances that warrant a prohibition on disclosure of reports or information identifying the employer.

(4) The commissioner may use the information and data it collects pursuant to this section for statistical and research purposes, and may compile and publish studies, analyses, reports, and surveys based on the information and data, as the commissioner may deem appropriate.

Section 5. KRS 337.427 is amended to read as follows:

- (1) Any employer who violates the provisions of KRS 337.423 shall be liable to the employee or employees affected in the amount of their unpaid wages, and an additional amount in compensatory and punitive damages, as appropriate~~in instances of willful violation in employee suits under subsection (2) of this section, up to an additional equal amount as liquidated damages~~.
- (2) Action to recover the liability may be maintained in any court of competent jurisdiction by any one (1) or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in the action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of action to be paid by the defendant~~, and costs of the action~~.
- (3) An agreement by any employee to work for less than the wage to which the employee is entitled under KRS 337.420 to 337.433 and 337.990(14) shall not be a bar to any such action, or to a voluntary wage restitution of the full amount due under KRS 337.420 to 337.433 and 337.990(14).
- (4) The commissioner shall receive, investigate, and attempt to resolve complaints of violations of Sections 1, 3, and 4 of this Act.
- (5) At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under KRS 337.420 to 337.433 and 337.990(14), the commissioner may bring any legal action necessary in behalf of the employee to collect the claim for unpaid wages. Any sums recovered by the commissioner shall be paid directly to each employee affected by the employer's unlawful acts. The commissioner shall not be required to pay the filing fee, or other costs, in connection with the action. The commissioner shall have power to join various claims against the employer in one (1) cause of action.
- ~~(6)(5)~~ In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of KRS 337.420 to 337.433 and 337.990(14).
- ~~(7)(6)~~ The commissioner may on his own motion petition any court of competent jurisdiction to restrain violations of KRS 337.423, and petition for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of KRS 337.420 to 337.433 and 337.990(14).

Section 6. KRS 337.430 is amended to read as follows:

~~An~~Any ~~Court~~ action under KRS 337.420 to 337.433 and 337.990(14) may be commenced no later than two (2) years~~six (6) months~~ after the cause of action occurs.

SECTION 7. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

KRS 337.420 to 337.433 may be cited as the Fair Pay Act of 2000.

HB 365, AN ACT relating to plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Department" means Department of Housing, Buildings and Construction;
- (2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction, and responsibility of a master plumber;
- (3) "Master plumber" means a person who assumes responsible charge, supervision, or direction of journeyman plumbers, plumbers' apprentices, and other persons in the construction, installation, or alteration of plumbing or who engages in, offers to engage in, or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for, or responsible charge of plumbing;

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- (4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall not include the installation of on-site sewage disposal systems, except for the piping, fixtures, or other appurtenances needed within the building. It shall include:
- (a) The water service pipe which forms the connection between the property line and the building, other than piping serving firefighting equipment;
 - (b) Private water supply systems;
 - (c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal, but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property;
 - (d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building; and
 - (e) Medical gas piping;
- (5) "Public building" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;
- (6) "Maintenance ~~person~~~~man~~" means a person who is a regular and bona fide full-time employee or agent of a property owner, property lessor, or property management company not in the plumbing business that has jurisdiction of property, and who performs routine maintenance of a plumbing system or plumbing equipment~~employed to maintain and keep plumbing in good repair~~;
- (7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;
- (8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm situated on ten (10) acres or more of land which is located outside the corporate limits of a municipality;
- (9) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever;
- (10) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;~~and~~
- (11) "Code" means the Kentucky State Plumbing Code; and
- (12) "Routine maintenance" means the routine and periodic servicing of plumbing, including cleaning, inspection, removal and replacement of component parts. Routine maintenance shall not include the installation of complete new plumbing systems.

Section 2. KRS 318.020 is amended to read as follows:

- (1) Nothing contained in this chapter shall be construed as prohibiting the employment of an apprentice to assist a journeyman plumber in his duties.
- (2) This chapter shall not apply to ~~anyone who is employed or acts as~~ a maintenance person who performs routine maintenance of a plumbing system or plumbing equipment in the regular course of his or her employment~~man~~.
- (3) This chapter shall not apply to persons employed by any water company, water district or sanitation district, in the laying, maintenance, and operation of its mains and other appurtenances in the conduct of its business.
- (4) The provisions of this chapter relating to the licensure of plumbers shall apply to all persons engaged in the practice of plumbing.

The Committee on Transportation reported **HB 108**, **HB 325**, and **HJR 41** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 108, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination

of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.

- (n) Kentucky African-American Heritage Commission.
- (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - ~~(i)(g)~~ Office of Public Affairs.
 - ~~(j)(h)~~ Office of Transportation Delivery~~(Office of Personnel Management).~~
 - ~~(k)(i)~~ Office of Minority Affairs.
 - ~~(l)(j)~~ Office of Environmental Affairs.
 - ~~(k)~~ Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.

- (l) Backside Improvement Commission.
- (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
- 7. Cabinet for Families and Children:
 - (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
- 8. Cabinet for Health Services.
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
- 9. Finance and Administration Cabinet:
 - (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
- 10. Labor Cabinet:

- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.

- (r) Unemployment Insurance Commission.
- 14. Personnel Cabinet:
 - (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 2. KRS 174.016 is amended to read as follows:

- (1) ~~The Department of Rural and Municipal Aid is created as a major organizational unit within the Transportation Cabinet. The department shall be headed by a commissioner who may be designated as a deputy secretary of transportation for operational purposes. The commissioner shall be appointed by the Governor pursuant to KRS 12.040 and shall be directly supervised by and responsible to the secretary.~~

- (2) The Department of Rural and Municipal Aid shall be responsible for the development and implementation of the Rural Secondary Program and such other functions as are assigned by the secretary, except that the department shall not have jurisdiction over the County Road Aid Program or Municipal Road Aid Program unless an agreement initiated by a county or municipality is in effect.

- (2)(3) The Department of Rural and Municipal Aid shall include an assistant state highway engineer for rural and municipal aid appointed pursuant to KRS Chapter 12 by the secretary upon the recommendation of the state highway engineer of the Department of Highways.

Section 3. KRS 174.020 is amended to read as follows:

- (1) The Transportation Cabinet ~~[in addition to the departments set forth in KRS 174.015]~~ shall consist of the following major organizational units:
- (a) The Office of the Secretary, which shall include, but not be limited to:
 - 1. a. The secretary to be appointed by the Governor under KRS 12.255; and
 - b. The deputy secretary appointed under KRS 12.040;
 - 2. The Railroad Commission shall be attached to the Office of the Secretary for administrative purposes;
 - (b) The Department of Highways, headed by a commissioner, appointed by the Governor under KRS 12.040 on the recommendation of the secretary;
 - (c) The Department of Vehicle Regulation, headed by a commissioner, appointed by the secretary with the approval of the Governor, under KRS 12.040;
 - (d) The Department of Rural and Municipal Aid, headed by a commissioner appointed by the Governor under KRS 12.040;
 - (e) The Department of Fiscal Management, headed by a commissioner appointed by the Governor under KRS 12.040;

- (f) The Department of Administrative Services, headed by a commissioner appointed by the Governor under KRS 12.040;
- (g) The Department of Human Resources Management, headed by a commissioner appointed by the Governor under KRS 12.040;
- (h) The following offices, which shall be attached to the Office of the Secretary:
 - 1. The Office of Public Affairs, headed by an executive director appointed under KRS 12.040;
 - 2. The Office of Policy and Budget, headed by an executive director appointed under KRS 12.040;
 - 3. The Office of Transportation Delivery, headed by an executive director appointed under KRS 12.040;
 - 4. The Office of General Counsel and Legislative Affairs, headed by an executive director appointed under KRS 12.040;
 - 5. The Office of Minority Affairs, headed by an executive director appointed under KRS 12.040;
- (i) The following offices, which shall be attached to the Department of Highways:
 - 1. The Office of Program Planning and Management, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and known as the deputy state highway engineer for program planning and management;
 - 2. The Office of Project Development, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project development;
 - 3. The Office of Construction and Operations, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for construction and operations;
 - 4. The Office of Intermodal Programs, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for intermodal programs. The Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Division of Aeronautics within the Office of Intermodal Programs for administrative purposes; and
 - 5. Highway District Offices One through Twelve, each district office to be headed by a chief highway district engineer, appointed by the secretary upon the recommendation of the commissioner and the state highway engineer, with the approval of the Governor

~~[Office of the Secretary of Transportation comprised of the secretary of transportation, a deputy secretary for administration, a deputy secretary for legal affairs, and the Office of Environmental Affairs created by paragraph (h) of this subsection;~~

- ~~(b) Railroad Commission, attached to the Office of the Secretary for administrative purposes;~~
- ~~(c) Office of Public Affairs, headed by an executive director who shall serve as media spokesperson and shall be responsible for all matters relating to public relations and information;~~
- ~~(d) Office of General Counsel, headed by an executive director responsible for general office administration, and the general counsel who provides legal services for the cabinet;~~
- ~~(e) Office of Personnel Management, headed by an executive director who shall be responsible for the implementation of programs and practices for the recruitment, utilization, and management of cabinet personnel;~~
- ~~(f) Office of Minority Affairs, headed by an executive director who shall be responsible for the development and implementation of programs and procedures for assisting minorities in employment and contractual relations with the cabinet;~~
- ~~(g) Kentucky Airport Zoning Commission established by KRS 183.861, which shall be attached to the Division of Aeronautics;~~
- ~~(h) Office of Environmental Affairs, headed by an executive director who shall oversee all Transportation Cabinet environmental issues, activities, and programs; developing and implementing policies; and procedures. The position of executive director is a policy making position under the provisions of KRS 18A.175. The Office of Environmental Affairs may direct the Transportation Cabinet's environmental activities, associated personnel, and facilities when necessary to assure compliance with environmental laws and regulations; and~~
- ~~(i) Office of Policy and Budget, headed by an executive director who shall be responsible for administering the budget functions of the Transportation Cabinet.]~~

- (2) ~~[The executive directors of the Offices of Public Affairs, General Counsel, Personnel Management, Minority Affairs, Environmental Affairs, and Policy and Budget shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050.]The positions of director in the Division of Fleet Management, Division of Professional~~

Services, and Division of Environmental Analysis are policy-making positions under~~[pursuant to]~~ KRS 18A.175.

Section 4. KRS 174.025 is amended to read as follows:

The executive director of the Office of General Counsel and Legislative Affairs may also serve as general counsel if so appointed pursuant to KRS 12.210. The Office of General Counsel and Legislative Affairs shall be directly responsible to the secretary and shall perform such duties as may be assigned by the secretary. The office shall consist of such~~[attorney]~~ appointed pursuant to KRS 12.210 and such employees as necessary to perform the duties, responsibilities, and functions of the office.

Section 5. The General Assembly confirms Executive Order 98-1596, dated December 3, 1998, relating to the reorganization of the Transportation Cabinet to the extent not otherwise confirmed by this Act.

Section 6. The following KRS section is repealed:

174.015 Departments within the cabinet.

HB 325, AN ACT relating to traffic regulations.

WHEREAS, in 1998, the Commonwealth experienced a total of 125,698 motor vehicle accidents and, of that total, 776 were fatal traffic accidents and 34,395 were nonfatal injury accidents; and

WHEREAS, in 1998, 869 people were killed and 52,952 persons were injured in traffic accidents; and

WHEREAS, the Kentucky State Police estimate that approximately one (1) in every four thousand eight hundred (4,800) Kentucky residents died as a result of a fatal traffic accident in 1998; and

WHEREAS, during 1998, there were 205 persons killed in fatal accidents involving a drinking driver, representing twenty-four percent (24%) of all persons killed in traffic accidents in Kentucky during 1998; and

WHEREAS, cold, hard statistics too often impersonalize the horror of what is happening on Kentucky's highways everyday; and

WHEREAS, one of the Commonwealth's most exemplary citizens, Ms. Patty Nickoson, was hit by a drunk driver on the AA Highway on February 9, 1998; and

WHEREAS, the driver was not tested for the presence of drug or alcohol use even though the individual had a history of driving under the influence convictions; and

WHEREAS, on February 10, 1998, Patty Nickoson crossed that final bourne from which no traveller returns, only two (2) months and two (2) days shy of her fiftieth birthday;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.100 is amended to read as follows:

- (1) ***Except as provided in subsection (3) of this section,*** law enforcement agencies may administer preliminary breath tests using devices or equipment ~~that~~~~[which]~~ will ensure an accurate determination of blood alcohol content. ~~The~~~~[Such]~~ tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.
- (2) Law enforcement agencies may record on film or video tape or by other visual and audible means field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or ~~other~~~~[such]~~ tests at a police station, jail, or other suitable facility subject to the following conditions:
 - (a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and
 - (b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and
 - (c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and
 - (d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and
 - (e) Recordings shall be used for official purposes only and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court. Recordings shall otherwise be considered as confidential records; and
 - (f) After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and
 - (g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.
- (3) ***All law enforcement agencies shall request all drivers involved in a motor vehicle accident that results in serious injury or death to submit to a field sobriety test at the scene of the accident. If a driver refuses to comply with the officer's***

request, the refusal shall have the same effect as refusing to comply under this chapter.

Section 2. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

- (1) He is deemed to have given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if arrested for any offense arising out of a violation of KRS 189A.010(1) or 189.520(1).
- (2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.
- (3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer responding to a motor vehicle accident involving serious physical injury or fatalities or at the direction of a peace officer who has~~having~~ reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).
 - (a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet.
 - (b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.
- (4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument.
- (5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.
- (6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.
- (7) The person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 3. KRS 189A.105 is amended to read as follows:

- (1) Except as provided in subsection (3) of this section, a~~No~~ person shall not be compelled to submit to any test or tests specified in KRS 189A.103, but his refusal to submit to the~~such~~ tests shall result in revocation of his driving privilege as provided in this chapter.
- (2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:
 1. That, if the person refuses to submit to the~~such~~ tests, the person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter; and
 2. That, if a test is taken and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and a~~such~~ substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days; and
 3. That the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.
- (b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

- (3) All drivers involved in a motor vehicle accident that results in serious physical injury or death shall be requested to submit to one (1) of the tests specified in Section 2 of this Act. A person who refuses a test shall be subject to the provisions of this chapter for refusing to comply with a test.

Section 4. KRS 189.580 is amended to read as follows:

- (1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment~~which~~ is involved in an accident resulting in serious physical injury to, or the death of, any person shall be requested to submit to the test required under subsection (3) of Section 1 of this Act. If an accident results in minor physical injury, serious physical injury, death, or

~~property damage, the driver or drivers involved in the accident~~~~or resulting only in damage to a vehicle or other property which is driven or attended by any person~~ shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of ~~the[such]~~ person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if ~~such carrying is~~ requested to do so by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants, and operator. The total names need not exceed five (5) in number.

- (2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to ~~the[such]~~ other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of ~~the[such]~~ vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on ~~the[such]~~ vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.
- (3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of five hundred dollars (\$500) or more is sustained shall, within ten (10) days, report the matter in writing to the Justice Cabinet.

Section 5. KRS 189.635 is amended to read as follows:

- (1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents ~~that[which]~~ occur within the Commonwealth. ~~The[Such]~~ accident reports shall be utilized ~~to[for such purposes as will]~~ improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of ~~accident[such]~~ data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.
- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, ~~the[such]~~ responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency. **The officer shall also request all drivers involved in a motor vehicle accident that results in serious physical injury or death to submit to a field sobriety test. If a driver refuses to comply with the officer's request, the refusal shall have the same effect as refusing to comply under KRS Chapter 189A.**
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.
- (6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

Section 6. KRS 281A.220 is amended to read as follows:

- (1) A person who drives a commercial motor vehicle within this state shall be deemed to have given his consent to take a test or tests of his blood, breath, or urine for the purpose of determining alcohol concentration, or the presence of other drugs.
- (2) **Except as provided in subsection (3) of this section,** a test or tests may be administered in accordance with the provisions of KRS 189A.103 at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver has reasonable cause to believe that driver was driving a commercial motor vehicle while having alcohol or

drugs in his system. A urine test shall be a test of last resort under the provisions of this section. The pretrial suspension provisions and implied consent provisions of KRS Chapter 189A shall be applicable to this section.

- (3) *All law enforcement agencies shall request all drivers involved in a motor vehicle accident that results in serious injury or death to submit to a field sobriety test. If a driver refuses to comply with the officer's request, the refusal shall have the same effect as refusing to comply with tests under KRS Chapter 189A.*

Section 7. This Act may be cited as the Patty Nickoson Act.

HJR 41, A JOINT RESOLUTION renaming a segment of KY 100 in Simpson County the "Veterans Memorial Highway".

WHEREAS, all Americans owe a debt of gratitude that we can never repay to the selfless men and women who have served in the United States Armed Forces; and

WHEREAS, our brave sons and daughters willingly spilled their blood in their defense of the United States Constitution; and

WHEREAS, rows of plain white headstones, both here and around the world, represent the ultimate sacrifice made to protect our freedom and our way of life; and

WHEREAS, even though millions of friends and loved ones have shed silent tears and endured grief filled hearts, there remains a constant overwhelming pride in the veterans who have gallantly served their country;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That state highway KY 100 in Simpson County from the junction with Interstate 65 to the junction with US 31W in the City of Franklin be renamed the "Veterans Memorial Highway".

Section 2. That the Secretary of the Transportation Cabinet erect appropriate highway signs at both the junction of KY 100 with Interstate 65 and the junction of KY 100 with US 31W in the City of Franklin within thirty (30) days of the effective date of this Resolution.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 113** and **HB 288**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 113, AN ACT relating to election precincts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.055 is amended to read as follows:

Subject to KRS 117.0551 to 117.0555:

- (1) Each county shall be divided into election precincts by the county board of elections. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of election shall establish precincts so that no boundary of a precinct crosses the boundary of:
 - (a) The Commonwealth;
 - (b) A county or urban-county;
 - (c) A congressional district;
 - (d) A state senatorial district;
 - (e) A state representative district; ~~or~~
 - (f) A justice of the peace or county commissioner's district established under KRS Chapter 67; or
 - (g) An aldermanic ward established under KRS 83.440.
- (2) The county board of elections shall have the authority to draw precinct lines so as to enable more than one (1) precinct to vote at one (1) location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception, they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. However, the State Board of Elections shall not remit to a county the expenses of an election for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing

less than three hundred fifty (350) registered voters. The State Board of Elections shall provide by administrative regulation under what circumstances an exception shall be granted.

- (3) No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any primary election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State.
- (4) The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county.
- (5) A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the State Board of Elections, and any changes in boundaries thereafter made shall also be filed with the State Board of Elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.
- (6) If the county board of elections fails to perform any of the duties required by KRS 117.055 to 117.0555 and KRS 117.0557:
 - (a) The State Board of Elections or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform the duty. Appeals may be taken to the Court of Appeals by either party; and
 - (b) The State Board of Elections shall not submit claims for payments to the county under KRS 117.343 and 117.345 until the State Board of Elections determines in writing that the duty has been performed.
- (7) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial, and municipal boundaries.

HB 288, AN ACT relating to elections and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:

- (1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, except in a year in which no primary and regular elections are scheduled, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. If a special election is ordered to be held in a year in which no elections are scheduled, the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section. The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.
- (2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.
- (3) The Attorney General shall notify each party state central committee of the duties of the party.
- (4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of

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Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

- (5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.
- (6) In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.
- (7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.
- (8) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.
- (9) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for one (1) year prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.
- (10) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.
- (11) Each election officer shall be paid a minimum of **one hundred dollars (\$100)** ~~sixty dollars (\$60)~~ per election day served, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the precinct election judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the precinct election judges for delivering election returns shall be paid by the county.

Section 2. KRS 117.187 is amended to read as follows:

- (1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.
- (2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being

excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

- (a) Operation of the voting machine or ballot cards;
 - (b) Posting of necessary signs and notices at the polling place;
 - (c) Voter assistance;
 - (d) Maintaining precinct rosters;
 - (e) Confirmation of a voter's identity;
 - (f) Challenge of a voter;
 - (g) Completing changes of address or name at the polling place;
 - (h) Qualifications for voting in a primary election;
 - (i) Electioneering and exit polling;
 - (j) Write-in voting procedures;
 - (k) Persons who may be in the voting room;
 - (l) Election violations and penalties;
 - (m) Assistance which may be provided by law enforcement officers; and
 - (n) Election reports.
- (3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.
- (4) Compensation in the minimum amount of twenty-five dollars (\$25)~~ten dollars (\$10)~~ for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 3. KRS 117.345 is amended to read as follows:

- (1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.
- (2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of seven hundred dollars (\$700)~~two hundred fifty-five dollars (\$255)~~ for each precinct in the county. However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.
- (3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

Section 4. To carry out the provisions of Section 3 of this Act, there is appropriated to the State Board of Elections out of the general fund the sum of \$1,500,000 for the fiscal year 2000-2001 and \$1,500,000 for the fiscal year 2001-2002. Funds not expended in fiscal year 2000-2001 may be carried over to fiscal year 2001-2002.

The Committee Amendment No. 1 to **HB 288** is as follows:

On page 7, line 12, after the number "2002", by inserting the following:
 ", notwithstanding KRS 45.229".

The Committee on Education reported **HB 44**, **HB 126**, with Committee Substitute attached thereto, and **HB 180**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 44, AN ACT relating to postsecondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

- (1) "Authority" means the Kentucky Higher Education Assistance Authority.
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.
- (3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- (4) "College" means any postsecondary educational institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, or other equivalent regional accrediting association, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- (5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.
- (6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.
- (7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.
- (8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.
- (9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.
- (10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.
- (11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.
- (12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.
- (13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.
- (14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.
- (15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.
- (16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.
- (17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.
- (18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.
- (19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.
- (20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- (21) "Secretary" means the United States Secretary of Education.
- (22) "Vocational school" means any public vocational school, technical institution, or technology center which is managed and controlled by the board of regents for the Kentucky Community and Technical System and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

- (23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

HB 126, AN ACT relating to sick leave for public school teachers and employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
- (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
 - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
 - (c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, daughters-in-law and sons-in-law, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and
 - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.
- (2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.
- (3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district after June 30, 1985.
- (4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.
- (5) Any school employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- (7) (a) A district board of education shall establish a sick leave donation program to permit teachers to voluntarily contribute sick leave to teachers in the same school district who are in need of an extended absence from school. A teacher who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher who is authorized to receive the sick leave donated. A teacher may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher may receive donations of sick leave if:
- 1. The teacher or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher to be absent for at least ten (10) days;
 - 2. The teacher's need for the absence and use of leave are certified by a licensed physician;
 - 3. The teacher has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 - 4. The teacher has complied with the school district's policies governing the use of sick leave.

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- (c) While an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
 - (d) Any sick leave that remains unused, is not needed by a teacher, and will not be needed in the future shall be returned to the teacher donating the sick leave.
 - (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
 - (9) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
 - (10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

The Committee Substitute to **HB 126** is as follows:

HB 126, AN ACT relating to sick leave for public school teachers and employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
 - (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
 - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
 - (c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, daughters-in-law and sons-in-law, brothers and sisters, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and
 - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.
- (2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.
- (3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district after June 30, 1985.
- (4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.
- (5) Any school employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of

days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

- (7) (a) A district board of education shall establish a sick leave donation program to permit teachers to voluntarily contribute sick leave to teachers in the same school district who are in need of an extended absence from school. A teacher who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher who is authorized to receive the sick leave donated. A teacher may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher may receive donations of sick leave if:
 1. The teacher or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher to be absent for at least ten (10) days;
 2. The teacher's need for the absence and use of leave are certified by a licensed physician;
 3. The teacher has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 4. The teacher has complied with the school district's policies governing the use of sick leave.
- (c) While an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher, and will not be needed in the future shall be returned to the teacher donating the sick leave.
- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- (9) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
- (10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

HB 180, AN ACT relating to postsecondary education prepaid tuition and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

- (1) "Academic year" means the time period specified by each participating institution;
- (2) "Board" means the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund;
- (3) "Division" means the Tuition Account Program Division in the Office of the State Treasurer that is responsible for administering the prepaid tuition accounts;
- (4) "Fund" means the prepaid tuition payment fund created in Section 2 of this Act and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund";
- (5) "Participating institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, all of which are required to participate, and any Kentucky private college or university that is accredited by a national or regional accrediting agency, recognized by the United States Department of Education, that voluntarily requests to participate and is accepted for participation in the program by the board of directors created in Section 3 of this Act;
- (6) "Prepaid tuition" means the amount of tuition estimated by the board for the standard tuition plans and for each participating institution for the academic year specified in the prepaid tuition contract;

- (7) "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;
- (8) "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any participating institution as provided in Sections 1 to 7 of this Act;
- (9) "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;
- (10) "Qualified beneficiary" means any resident of Kentucky at the time a purchaser enters into a prepaid tuition contract on behalf of the resident or any nonresident who intends to attend a participating institution in Kentucky;
- (11) "Standard tuition plan" means the average of the estimated tuition for the:
 - (a) Commonwealth's community colleges;
 - (b) Technical colleges;
 - (c) Four (4) year universities; or
 - (d) Private colleges or universities;
- (12) "Tuition" means the actual charges and all mandatory fees required as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend a participating institution;
- (13) "Tuition credit" means the discounted net present value of a unit equal to one twenty-fourth (1/24) of the prepaid tuition; and
- (14) "Tuition shortfall" means the amount by which tuition exceeds the prepaid tuition adjusted in proportion to the number of tuition credits purchased.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund", to be governed by a board of directors and administered by the Tuition Account Program Division in the Office of the State Treasurer. The fund shall consist of payments received from prepaid tuition contracts under Sections 1 to 7 of this Act. Interest and income earned from the investment of the fund shall remain in the fund and be credited to it. Moneys in the fund are appropriated for the purposes set forth in this section.
- (2) The purposes of the fund are:
 - (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
 - (b) To provide students and their parents economic protection against rising tuition costs.
- (3) The office and the facilities of the State Treasurer shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.
- (4) Assets of the fund shall constitute public funds of the Commonwealth and may be invested in any instrument, obligation, security, or property that constitutes legal investments for the investment of public funds in the Commonwealth that are deemed most appropriate by the board and may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
- (5) The fund, through the State Treasurer, may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board.
- (6) There is created a separate account within the State Treasurer's office to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the Commonwealth postsecondary education prepaid tuition trust fund. Funds may be transferred from the property abandoned under KRS Chapter 393 to the account and shall be repaid to the general fund no later than three (3) years after the transfer. Interest earned from the trust fund may be transferred to the account. The board may also establish an administrative fee for handling prepaid tuition contracts and deposit the money in this account.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) The fund shall be governed by an eleven (11) member board of directors. The board shall have five (5) ex officio voting members including the State Treasurer, the chair of the Council on Postsecondary Education, the president of the Council on Postsecondary Education or designee, the chair of the board of directors of the Higher Education Assistance Authority, the chair of the Association of Kentucky Independent Colleges and Universities, three (3) members appointed by the State Treasurer after consultation with the Speaker of the House and the President of the Senate, and three (3) members appointed by the Governor. Of the three (3) members to be appointed by the State Treasurer, one (1) shall be appointed after consultation with the President of the Senate and one (1) shall be appointed after consultation with the Speaker of the House. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.
- (2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term,

and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.

- (3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.
- (4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.
- (5) The initial board appointments shall be made by October 1, 2000.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The board shall:

- (1) Promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement the provisions of Sections 1 to 7 of this Act;
- (2) Employ personnel and enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;
- (3) Invest moneys in the fund in any instruments, obligations, securities, or property deemed appropriate by the board;
- (4) Procure insurance to protect against any loss in connection with the fund's property, assets, or activities and to indemnify board members from personal loss or accountability from liability arising from any action or inaction as a board member;
- (5) Make arrangements with participating institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the fund of the tuition cost on behalf of a qualified beneficiary to attend a participating institution in which the beneficiary is admitted and enrolled;
- (6) Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including but not limited to, the termination, withdrawal, or transfer of payments under a prepaid tuition contract; tuition shortfalls; number of participants; time limitations for prepaid tuition contracts and the use of tuition benefits; tuition conversions; payment schedules; penalties for failure of purchasers to adhere to contracts; and transfer of prepaid tuition credits towards private education in the Commonwealth or for out-of-state institutions;
- (7) Obtain appropriate actuarial assistance to establish, maintain, and certify a fund sufficient to defray the obligation of the fund, annually evaluate or cause to be evaluated, the actuarial soundness of the fund, and determine prior to each academic year the amount of prepaid tuition for each standard tuition plan and for each participating institution for specific academic years, the corresponding required amount of tuition credits, the amount of prepaid tuition conversion, and the amount of prepaid tuition academic year conversion;
- (8) Make an annual report each year to the Legislative Research Commission showing the fund's condition; and
- (9) Market and promote participation in the fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) The prepaid tuition contract entered into by the purchaser and the board shall constitute an irrevocable pledge and guarantee by the fund to pay for the tuition of a qualified beneficiary upon acceptance and enrollment at a participating institution in proportion to the number of tuition credits purchased. The fund shall pay this amount to the participating institution on behalf of the qualified beneficiary.
- (2) The fund shall pay the amount of any tuition shortfall to the participating institution on behalf of the qualified beneficiary.
- (3) The purchaser or qualified beneficiary shall pay to the participating institution the amount of any prepaid tuition academic year conversion shortfall and the amount of any prepaid tuition conversion shortfall.
- (4) A qualified beneficiary attending a participating institution may apply tuition credits to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full-time undergraduates at that institution.
- (5) The board and participating institutions may agree that tuition credits remaining in a prepaid tuition account after tuition is paid may be converted into other educational expense credits in compliance with administrative regulations promulgated by the board. The board may permit the use of tuition credits for part-time undergraduate enrollment or graduate programs at participating institutions, after an appropriate conversion. Any prepaid tuition remaining in a prepaid tuition account, for reasons other than termination of the account as provided for in Section 7 of this Act, shall be refunded to the purchaser or the purchaser's designee.

- (6) The value of the prepaid tuition credits shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by federal law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) Purchasers buying tuition credits for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the division. The contract shall provide for the purchase of tuition credits for prepaid tuition for the qualified beneficiary from one (1) to four (4) specific academic years.
- (2) Upon written notification to the division a purchaser may amend the prepaid tuition contract to change:
- (a) The qualified beneficiary;
 - (b) The academic year or years for which tuition credits are purchased;
 - (c) A standard plan designation to a participating institution designation; or
 - (d) One (1) participating institution designation to another participating institution designation.
- (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary and shall be exempt from the intangible personal property tax levied under KRS 132.020 and exempt from the individual income tax levied under KRS 141.020.
- (4) Nothing in Sections 1 to 7 of this Act or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to a participating institution, be allowed to continue to attend a participating institution after having been admitted, or be graduated from a participating institution.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) Upon termination of a prepaid tuition contract, the division shall pay from the fund to the purchaser or the purchaser's designee the value of the prepaid tuition account if the contract is terminated for any of the following:
- (a) The death of the qualified beneficiary;
 - (b) The disability of the qualified beneficiary that, in the opinion of the division, would make attendance by the beneficiary at a participating institution impossible or unreasonably burdensome;
 - (c) Failure of the qualified beneficiary who, in the opinion of the division, has made a good faith attempt to gain admission to a participating or nonparticipating institution within the time limits imposed by the board; or
 - (d) The movement of a family of a qualified beneficiary from Kentucky to another state with a savings plan.
- (2) Upon termination of a prepaid tuition account as a result of a decision by the qualified beneficiary to attend a nonparticipating institution, the division at the direction of the purchaser or beneficiary and upon presentation of proof of the beneficiary's acceptance by and enrollment in the nonparticipating institution, shall pay from the fund to the institution the value of the tuition credits as determined by the board of directors for the postsecondary education prepaid tuition program. If the cost of tuition exceeds the value of the tuition credits, it shall be the responsibility of the beneficiary to pay the difference. If the value of the tuition credits exceeds the cost of tuition, the beneficiary shall be given a refund equal to the difference.
- (3) At the option of the purchaser or the purchaser's designee, the purchase price of any unused tuition credits may be carried forward to another academic year or refunded by the division from the fund.
- (4) Upon termination of a tuition account as a result of a decision by the qualified beneficiary not to attend a participating or nonparticipating institution, within time limits determined by the board, the purchaser or purchaser's designee shall receive the purchase price of the tuition credits.
- (5) The division may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.
- (6) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the purchaser or the purchaser's designee shall receive a refund from the fund by the division consisting of the amount of the prepaid tuition for the number of tuition credits purchased for that academic year.
- (7) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky Higher Educational Savings Plan Trust, the purchaser may do so under administrative regulations promulgated by the board of directors of the Commonwealth postsecondary education prepaid tuition trust funds.

SECTION 8. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

The Tuition Account Program Division is hereby established within the Office of the State Treasurer for the purpose of implementing and administering the prepaid tuition account program established in Sections 1 to 7 of this Act. The program shall provide for the purchase of tuition credits for a beneficiary to attend a participating postsecondary institution.

Section 9. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The participant shall retain ownership of all contributions made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement. In the event the participation agreement is terminated, the participant shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and a reversionary right to receive interest on all the contributions at the rate of interest at which the contributions were invested, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- (3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund established in Section 2 of this Act, and in compliance with administrative regulations promulgated by the board for the savings plan trust.
- (4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- ~~(5)(4)~~ The institution of higher education shall obtain ownership of the contributions made for the higher education costs paid to the institution at the time each payment is made to the institution;
- ~~(6)(5)~~ Any amounts which may be paid pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section, shall be owned by the trust;
- ~~(7)(6)~~ A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- ~~(8)(7)~~ Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- ~~(9)(8)~~ Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 10. Initial purchase of prepaid tuition credits through the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund shall commence no sooner than the academic year 2001-2002.

The Committee Substitute to **HB 180** is as follows:

HB 180, AN ACT relating to postsecondary education prepaid tuition and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

- (1) "Academic year" means the time period specified by each participating institution;
- (2) "Board" means the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund;
- (3) "Fund" means the prepaid tuition payment fund created in Section 2 of this Act and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund";
- (4) "Office" means the Tuition Account Program Office in the Office of the State Treasurer that is responsible for administering the prepaid tuition accounts;
- (5) "Participating institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, all of which are required to participate, and any Kentucky private college or university that is accredited by a national or regional accrediting agency, recognized by the

United States Department of Education, that voluntarily requests to participate and is accepted for participation in the program by the board of directors created in Section 3 of this Act;

- (6) "Prepaid tuition" means the amount of tuition estimated by the board for the standard tuition plans and for each participating institution for the academic year specified in the prepaid tuition contract;
- (7) "Prepaid tuition academic year conversion" means the difference between the amount of prepaid tuition required in the original prepaid tuition contract and the amount of prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year;
- (8) "Prepaid tuition academic year conversion shortfall" means the amount by which the prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year exceeds the amount of prepaid tuition required in the original prepaid tuition contract;
- (9) "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;
- (10) "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any participating institution as provided in Sections 1 to 7 of this Act;
- (11) "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;
- (12) "Qualified beneficiary" means any resident of Kentucky at the time a purchaser enters into a prepaid tuition contract on behalf of the resident or any nonresident who intends to attend a participating institution in Kentucky;
- (13) "Standard tuition plan" means the average of the estimated tuition for the:
 - (a) Commonwealth's community colleges;
 - (b) Technical colleges;
 - (c) Four (4) year universities; or
 - (d) Private colleges or universities;
- (14) "Tuition" means the actual charges and all mandatory fees required as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend a participating institution. Tuition for a private college or university is calculated on the current year tuition rate, increased by the same percentage that the University of Kentucky tuition is increased on a per year basis;
- (15) "Tuition credit" means the discounted net present value of a unit equal to one twenty-fourth (1/24) of the prepaid tuition; and
- (16) "Tuition shortfall" means the amount by which tuition exceeds the prepaid tuition adjusted in proportion to the number of tuition credits purchased.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund", to be governed by a board of directors and administered by the Tuition Account Program Office in the Office of the State Treasurer. The fund shall consist of payments received from prepaid tuition contracts under Sections 1 to 7 of this Act. Income earned from the investment of the fund shall remain in the fund and be credited to it.
- (2) The purposes of the fund are:
 - (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
 - (b) To provide students and their parents economic protection against rising tuition costs.
- (3) The office and the facilities of the State Treasurer shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments. The office of the Treasurer shall work with the Kentucky Educational Savings Plan Trust to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.
- (4) Assets of the fund shall constitute public funds of the Commonwealth and may be invested in any instrument, obligation, security, or property that constitutes legal investments for the investment of public funds in the Commonwealth that are deemed most appropriate by the board and may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
- (5) The fund, through the State Treasurer, may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board.
- (6) There is created a separate account within the State Treasurer's office to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the Commonwealth postsecondary education prepaid tuition trust fund. Funds may be transferred from the property abandoned under KRS Chapter 393 to the administrative account and shall be repaid to the abandoned property fund no later than three (3) years after the

transfer. The board may establish administrative fees for handling prepaid tuition contracts and deposit the money in this account.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) The fund shall be governed by a thirteen (13) member board of directors. The board shall have seven (7) ex officio voting members including the State Treasurer, the chair of the Council on Postsecondary Education or designee, the president of the Council on Postsecondary Education or designee, the secretary of the Finance Cabinet or designee, the secretary of the Revenue Cabinet or designee, the chair of the board of directors of the Higher Education Assistance Authority or designee, the chair of the Association of Kentucky Independent Colleges and Universities or designee, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.
- (2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.
- (3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.
- (4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.
- (5) The initial board appointments shall be made by October 1, 2000.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The board shall:

- (1) Promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement the provisions of Sections 1 to 7 of this Act;
- (2) Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;
- (3) Invest moneys in the fund in any instruments, obligations, securities, or property deemed appropriate by the board;
- (4) Procure insurance to protect against any loss in connection with the fund's property, assets, or activities and to indemnify board members from personal loss or accountability from liability arising from any action or inaction as a board member;
- (5) Make arrangements with participating institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the fund of the tuition cost on behalf of a qualified beneficiary to attend a participating institution in which the beneficiary is admitted and enrolled;
- (6) Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including but not limited to, the termination, withdrawal, or transfer of payments under a prepaid tuition contract; tuition shortfalls; number of participants; time limitations for prepaid tuition contracts and the use of tuition benefits; tuition conversions; payment schedules; penalties for failure of purchasers to adhere to contracts; and transfer of prepaid tuition credits towards private education in the Commonwealth or for out-of-state institutions;
- (7) Obtain appropriate actuarial assistance to establish, maintain, and certify a fund sufficient to defray the obligation of the fund, annually evaluate or cause to be evaluated, the actuarial soundness of the fund, and determine prior to each academic year the amount of prepaid tuition for each standard tuition plan and for each participating institution for specific academic years, the corresponding required amount of tuition credits, the amount of prepaid tuition conversion, and the amount of prepaid tuition academic year conversion;
- (8) Make an annual report each year to the Legislative Research Commission showing the fund's condition; and
- (9) Market and promote participation in the fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) The prepaid tuition contract entered into by the purchaser and the board shall constitute an irrevocable pledge and guarantee by the fund to pay for the tuition of a qualified beneficiary upon acceptance and enrollment at a participating institution in proportion to the number of tuition credits purchased. The fund shall pay this amount to the participating institution on behalf of the qualified beneficiary.
- (2) The fund shall pay the amount of any tuition shortfall to the participating institution on behalf of the qualified beneficiary.

- (3) The purchaser or qualified beneficiary shall pay to the participating institution the amount of any prepaid tuition academic year conversion shortfall and the amount of any prepaid tuition conversion shortfall.
- (4) A qualified beneficiary attending a participating institution may apply tuition credits to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full-time undergraduates at that institution.
- (5) The board and participating institutions may agree that tuition credits remaining in a prepaid tuition account after tuition is paid may be converted into other educational expense credits in compliance with administrative regulations promulgated by the board. The board may permit the use of tuition credits for part-time undergraduate enrollment or graduate programs at participating institutions, after an appropriate conversion. Any prepaid tuition remaining in a prepaid tuition account, for reasons other than termination of the account as provided for in Section 7 of this Act, shall be refunded to the purchaser or the purchaser's designee.
- (6) The value of the prepaid tuition credits shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by federal law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) Purchasers buying tuition credits for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the office. The contract shall provide for the purchase of tuition credits for prepaid tuition for the qualified beneficiary from one (1) to four (4) specific academic years.
- (2) Upon written notification to the office a purchaser may amend the prepaid tuition contract to change:
 - (a) The qualified beneficiary;
 - (b) The academic year or years for which tuition credits are purchased;
 - (c) A standard plan designation to a participating institution designation; or
 - (d) One (1) participating institution designation to another participating institution designation. The value of the tuition credit shall be adjusted under requirements of administrative regulations promulgated by the board.
- (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary and shall be exempt from the intangible personal property tax levied under KRS 132.020 and exempt from the individual income tax levied under KRS 141.020.
- (4) Nothing in Sections 1 to 7 of this Act or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to a participating institution, be allowed to continue to attend a participating institution after having been admitted, or be graduated from a participating institution.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) Upon termination of a prepaid tuition contract, the office shall pay from the fund to the purchaser or the purchaser's designee the purchase price of the tuition credits if the contract is terminated for any of the following:
 - (a) The death of the qualified beneficiary;
 - (b) The disability of the qualified beneficiary that, in the opinion of the division, would make attendance by the beneficiary at a participating institution impossible or unreasonably burdensome;
 - (c) Failure of the qualified beneficiary who, in the opinion of the division, has made a good faith attempt to gain admission to a participating or nonparticipating institution within the time limits imposed by the board; or
 - (d) The movement of a family of a qualified beneficiary from Kentucky to another state with a savings plan.
- (2) Upon termination of a prepaid tuition account as a result of a decision by the qualified beneficiary to attend a nonparticipating institution, the office at the direction of the purchaser or beneficiary and upon presentation of proof of the beneficiary's acceptance by and enrollment in the nonparticipating institution, shall pay from the fund to the institution the value of the tuition credits as determined by the board of directors for the postsecondary education prepaid tuition program. If the cost of tuition exceeds the value of the tuition credits, it shall be the responsibility of the beneficiary to pay the difference. If the value of the tuition credits exceeds the cost of tuition, the beneficiary shall be given a refund equal to the difference.
- (3) At the option of the purchaser or the purchaser's designee, the purchase price of any unused tuition credits may be carried forward to another academic year or refunded by the office from the fund.
- (4) Upon termination of a tuition account as a result of a decision by the qualified beneficiary not to attend a participating or nonparticipating institution, within time limits determined by the board, the purchaser or purchaser's designee shall receive the purchase price of the tuition credits.
- (5) The office may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.
- (6) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the

purchaser or the purchaser's designee shall receive a refund from the fund by the office consisting of the amount of the prepaid tuition for the number of tuition credits purchased for that academic year.

- (7) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky Higher Educational Savings Plan Trust, the purchaser may do so under administrative regulations promulgated by the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund.

SECTION 8. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

The Tuition Account Program Office is hereby established within the Office of the State Treasurer for the purpose of implementing and administering the prepaid tuition account program established in Sections 1 to 7 of this Act. The program shall provide for the purchase of tuition credits for a beneficiary to attend a participating postsecondary institution.

SECTION 9. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

Seventy-five percent (75%) of the balance of the abandoned property funds is hereby earmarked for support of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund. Transfers from the abandoned property fund to the trust fund are authorized in order to meet any unfunded liability as determined by the board.

Section 10. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The participant shall retain ownership of all contributions made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement. In the event the participation agreement is terminated, the participant shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and a reversionary right to receive interest on all the contributions at the rate of interest at which the contributions were invested, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- (3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund established in Section 2 of this Act, and in compliance with administrative regulations promulgated by the board for the savings plan trust.
- (4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- ~~(5)(4)~~ The institution of higher education shall obtain ownership of the contributions made for the higher education costs paid to the institution at the time each payment is made to the institution;
- ~~(6)(5)~~ Any amounts which may be paid pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section, shall be owned by the trust;
- ~~(7)(6)~~ A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- ~~(8)(7)~~ Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- ~~(9)(8)~~ Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 11. KRS 164.746 is amended to read as follows:

- (1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In

addition, the president of the Council on Postsecondary Education, the State Treasurer, and the secretary of the Department of Finance shall serve as nonvoting ex-officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

- (2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.
- (3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.
- (4) Board members shall receive compensation for their services, in the amount of sixty-five dollars (\$65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.
- (5) The board shall provide for the holding of regular meetings and special meetings.
 - (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.
 - (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.
- (7) The board may:
 - (a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and
 - (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

(8) The board or a designee shall develop in cooperation with the Office of the Treasurer a joint marketing plan for the Kentucky Savings Plan Trust and the Commonwealth Prepaid Tuition Plan.

Section 12. Initial purchase of prepaid tuition credits through the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund shall commence no sooner than the academic year 2001-2002.

Section 13. During the 2000-2002 biennium, the prepaid postsecondary tuition administrative account is authorized to borrow a maximum of \$1,000,000 from the abandoned property account.

The Committee on Licensing and Occupations reported **HB 238, HB 290**, with Committee Substitute attached thereto, and **HB 409**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 238, AN ACT relating to the establishment of a pilot project for the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

- (1) It is the responsibility of the legislature to establish public policy to improve the quality of health care to Kentuckians and to provide mechanisms for consumer protection;**
- (2) Proponents argue that the licensing of denturists would result in improvements to the quality of health care to Kentuckians, including better oral care, provide cost-effective alternatives for denture care services and products, and result in increased access to dental services generally; and**
- (3) The most prudent approach to determine whether denturists can practice without harming the public health is to establish a denturistry "pilot project" through which denturists may be provisionally licensed to practice denturistry and their practice closely monitored over a set period of time.**

SECTION 2. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act, unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of Dentistry established under KRS Chapter 313;**
- (2) "Committee" means the Denturistry Oversight Committee established under Section 7 of this Act;**

- (3) "Denture" means a removable full or partial upper or lower dental appliance to be worn in the mouth to replace missing natural teeth;
- (4) "Denturist" means a person provisionally licensed under Sections 1 to 14 of this Act to practice dentistry;
- (5) "Dentistry pilot project" means a program established in Sections 1 to 14 of this Act to provisionally license denturists for a specified period of time to engage in the practice of dentistry under controlled conditions to determine competency to engage in permanent practice;
- (6) "Practice of dentistry" means: the construction, repair, relining, reproduction, adjusting, and fitting of a denture into the oral cavity of a person to replace missing natural teeth; and
- (7) "Unprofessional conduct" means willful acts of negligence or a pattern of continued and repeated malpractice, negligence, or incompetence, or illegal or unethical behavior in the course of the practice of dentistry.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) Other provisions of KRS Chapter 313 notwithstanding, no person shall practice dentistry or perform any of the duties usually performed by a denturist unless the person at the time holds a valid provisional license to practice dentistry in the Commonwealth of Kentucky under Sections 1 to 14 of this Act.
- (2) A person who is not licensed as a denturist under subsection (1) of this section shall not hold himself or herself out to the public as a denturist or use any terms, titles, or abbreviations that express or imply that the person is licensed as a denturist.

SECTION 4. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 1 to 14 of this Act shall not apply to persons licensed or registered under any other provision of the Kentucky Revised Statutes, including but not limited to dentists and dental laboratory technicians or students within accredited training programs of these professions. Nothing in Sections 1 to 14 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons practice.
- (2) Nothing in Sections 1 to 14 of this Act shall be construed to prohibit or interfere with the ability of a licensed dentist or registered dental laboratory technician to perform those activities that are associated with their practices, respectively, as provided in KRS Chapter 313.
- (3) Nothing in Sections 1 to 14 of this Act shall be construed to prohibit or interfere with the practice of dentistry by students enrolled in a school approved by the committee, if the students only perform services in accordance with a course of instruction or an assignment from an instructor.
- (4) Nothing in Sections 1 to 14 of this Act nor any other provision of KRS Chapter 313 shall be construed to prohibit or interfere with the ability of a denturist to enter into a partnership or other business association with a dentist, if the association will not impede the independent professional judgment of either party.

SECTION 5. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The board, with the concurrence of the committee, may promulgate administrative regulations in accordance with KRS Chapter 13A and Sections 1 to 14 of this Act that:

- (1) Establish practice standards and protocols for the practice of dentistry that are reasonable and necessary to protect the public health and safety;
- (2) Establish an examination process for applicants for licenses and determine the passing grade;
- (3) Establish a process for receiving and investigating complaints against licensed denturists and for taking appropriate disciplinary action; and
- (4) Establish fees for examinations, licenses, and renewal of licenses that may not in aggregate exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of the dentistry pilot project.

SECTION 6. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall issue a license as a denturist to an applicant who:
 - (a) Submits a completed application;
 - (b) Pays the appropriate fees;
 - (c) Documents at least two (2) years of formal education in dental laboratory technology;
 - (d) Documents at least two (2) years of formal education in dentistry that includes courses in head and oral anatomy and physiology, oral pathology, and microbiology;
 - (e) Documents at least one (1) year of full-time equivalent experience in constructing dentures; and
 - (f) Passes an examination approved in accordance with Section 8 of this Act.
- (2) An applicant for a license under subsection (1) of this section may substitute additional experience for the education required in subsection (1)(c) of this section on a year-for-year basis.
- (3) Until January 1, 2001, any person who applies for a denturist license and can document at least ten (10) years of

consecutive full-time equivalent experience in constructing dentures may be licensed without examination.

- (4) Any person who holds a valid license issued by another state, territory, or other governmental jurisdiction to practice dentistry shall be issued a license to practice in Kentucky upon application and submittal of the applicable fees, if the requirements of the licensing jurisdiction are substantially equivalent to those of Kentucky.

SECTION 7. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) The Dentistry Oversight Committee of the Kentucky Board of Dentistry is created. The committee shall consist of seven (7) members, with members appointed as follows:
- (a) Two (2) members shall be dentists licensed in the Commonwealth of Kentucky and appointed by the Board of Dentistry, one (1) of whom shall be a member of the board;
 - (b) Two (2) members shall each have at least ten (10) years of consecutive full-time equivalent experience in constructing dentures and shall be appointed by the Kentucky Association of Denturists; and
 - (c) Three (3) members shall be consumer advocates as follows:
 - 1. The director of the Division of Consumer Protection within the Office of the Attorney General, or his or her designee;
 - 2. The secretary of the Cabinet for Health Services, or his or her designee; and
 - 3. A member of a senior citizens organization that represents a large number of consumers and has statewide membership, appointed by the Governor.
- (2) Each member of the committee shall hold office for the term of the pilot project or until resignation.
- (3) Any vacancy shall be filled for the remainder of the unexpired term in accordance with the provisions of subsection (1) of this section.
- (4) Each member of the committee shall serve without compensation but shall receive reimbursement for any necessary expenses incurred in attending its meetings or engaging in other official business.
- (5) The committee shall, in general terms, provide management oversight for the operation of the dentistry pilot project. Specifically, the committee shall:
- (a) Provide consultation to the board in developing appropriate practice standards and protocols for the practice of dentistry;
 - (b) Maintain the records referenced in Section 12 that licensed denturists are required to submit to the committee;
 - (c) Make a recommendation to the board, when appropriate, for an action to be taken against a denturist that affects his or her license in accordance with Section 11; and
 - (d) Evaluate all records and documentation accrued during the course of the pilot project and make a recommendation to the General Assembly regarding continuance or discontinuance of the licensing of denturists.

SECTION 8. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) The board, with the concurrence of the committee, shall approve and administer an examination for licensing under Sections 1 to 14 of this Act. The examination shall determine the qualifications, fitness, and ability of the applicant to practice dentistry. The examination may be written or clinical, or both.
- (2) An examination shall be held at least annually.
- (3) The first examination shall be conducted not later than October 1, 2000.
- (4) The examination for a denturist license shall include the following subjects:
- (a) Partial denture construction and design;
 - (b) Clinical dental technology;
 - (c) Dental laboratory technology;
 - (d) Clinical jurisprudence;
 - (e) Asepsis;
 - (f) Medical emergencies;
 - (g) Cardiopulmonary resuscitation;
 - (h) Head and oral anatomy and physiology;
 - (i) Oral pathology; and
 - (j) Microbiology.
- (5) Upon payment of the appropriate fee, an applicant who fails an examination may retake the examination.

SECTION 9. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) A denturist shall refer a patient to a dentist or a physician and not practice denturistry if the denturist identifies:
 - (a) An abnormality or disease process in the patient's oral cavity that requires medical or dental treatment; or
 - (b) The need for tissue or teeth modification to assure proper fit of a partial or full denture.
- (2) If a denturist refers a patient to a dentist or a physician under subsection (1) of this section, the denturist shall not practice denturistry until corrective oral treatment has been successfully completed and the patient is released from the care of the dentist or physician.

SECTION 10. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) A person, including but not limited to consumers, licensees, corporations, organizations, health-care facilities, and state and local government agencies, may submit a written complaint to the committee charging a licensed denturist with unprofessional conduct and specifying the grounds therefor. If the committee determines that the complaint merits investigation, or if the committee has reason to believe, without a written complaint, that a licensed denturist may have engaged in unprofessional conduct, the committee shall request the board to investigate to determine whether the allegations are substantiated. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.
- (2) Every licensed denturist shall conspicuously display a sign at each office location where denturistry services are provided notifying the public that written complaints concerning denturistry services may be forwarded to the committee for investigation. The sign shall be written in clear and legible letters of not less than one (1) inch in height, and contain the following statement: "Please address any written complaints regarding the services provided by the denturist to the Denturistry Oversight Committee of the Kentucky Board of Dentistry."
- (3) Each complaint received by the committee shall be recorded and shall include the licensee's name, name of complaining party, date of complaint, brief statement of complaint, and its ultimate disposition. Complaint records shall be open for public inspection upon final disposition.
- (4) The committee may initiate an investigation on any complaint received, or on its own volition. The board shall conduct the investigation and report its findings to the committee. If the investigation of a complaint substantiates that an offense has been committed, the committee shall recommend that the board take disciplinary action that is commensurate with the nature, severity, and frequency of the offense.

SECTION 11. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) Upon recommendation by the committee, the board may:
 - (a) Refuse to issue or renew a license of a denturist;
 - (b) Suspend, revoke, or impose probationary conditions upon a licensee;
 - (c) Impose an administrative fine;
 - (d) Issue a written reprimand;
 - (e) Limit a licensee's scope of practice;
 - (f) Order remedial education or retesting; or
 - (g) Any combination thereof regarding any licensee upon proof of any of the following causes:
 - 1. Conviction of any felony or conviction of only those misdemeanors involving moral turpitude;
 - 2. Gross malpractice or incompetence;
 - 3. Mental or physical health that would endanger public health or safety;
 - 4. Selling, renting, or lending to any person his or her license, or illegally or fraudulently obtaining a license from the board;
 - 5. Unprofessional conduct;
 - 6. Violating any of the provisions of Sections 1 to 14 of this Act or any lawful order; and
 - 7. Failure to comply with Sections 1 to 14 of this Act or the administrative regulations of the board.
- (2) A licensee may appeal a suspension or revocation of a license within thirty (30) days of the date of notification of action. Upon appeal, the board shall schedule an administrative hearing in accordance with KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

Each licensed denturist shall submit to the committee, on a quarterly basis:

- (1) Information detailing his or her specific practice including, for each patient served, the patient's name, address, telephone number, services provided, cost of services rendered, and payment method; and
- (2) Any other information that the committee deems necessary to collect to aid in analysis of the efficacy of the denturistry pilot project.

SECTION 13. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) During the course of the denturistry pilot project, the committee shall:
- (a) Review and analyze the information collected from denturists referred to in Section 12 of this Act;
 - (b) Review and analyze the types and dispositions of any written complaints considered by the committee and board, including but not limited to any disciplinary actions imposed by the board under Sections 10 and 11 of this Act; and
 - (c) Review and analyze relevant research and any other material that would provide objective information pertinent to issues under consideration.
- (2) No later than July 1, 2005, the committee shall prepare and submit a report to the Legislative Research Commission that recommends whether or not the provisional licensing of denturists should be made permanent, and if so, any recommended statutory or operational changes that should be included in enabling legislation to be considered by the 2006 General Assembly. If permanent licensure is not recommended and enabling legislation not enacted, provisional licensure under Sections 1 to 14 of this Act shall terminate effective July 1, 2006.

SECTION 14. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) Any person who practices or attempts to practice denturistry without being licensed under Sections 1 to 14 of this Act, shall be fined one thousand dollars (\$1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense, and for each subsequent offense shall be fined two thousand dollars (\$2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license, practices or attempts to practice denturistry shall constitute a separate offense.
- (2) Any person who violates any provision of Sections 1 to 14 of this Act for which no specific penalty has been provided shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense, and for each subsequent offense shall be fined not less than one thousand dollars (\$1,000) or imprisoned in the county jail for not more than six (6) months, or both.

HB 290, AN ACT relating to certified professional counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.515 is amended to read as follows:

- (1) The board shall administer and enforce the provisions of KRS 335.500 to 335.599 and shall evaluate the qualifications of applicants for certification.
- (2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 335.500 to 335.599.
- (3) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to carry out and enforce the provisions of KRS 335.500 to 335.599, including the establishment of fees.
- (4) The board may conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the function of KRS 335.500 to 335.599.
- (5) The board may issue certificates to qualified candidates.
- (6) The board may renew certificates and may require up to ten (10) continuing education hours as a condition for renewal each year.
- (7) The board may suspend or revoke certificates, impose supervisory or probationary conditions upon certificate holders, impose administrative disciplinary fines, issue written reprimands and admonishments, or perform any combination thereof.
- (8) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 335.505(1).
- (9) The board may grant retired status or inactive status to a certificate holder under conditions set out in administrative regulations promulgated by the board.
- (10) The board may employ persons as necessary to carry on its work and shall define those person's duties and fix their compensation.
- (11) The board shall promulgate by administrative regulation a code of ethics for and standards of practice of certified professional counselors.
- (12) The board may enter into reciprocal agreements with certified professional counseling boards or licensed professional counseling boards in other states ~~with certification qualifications and requirements as high as Kentucky's~~.

SECTION 2. A NEW SECTION OF KRS 335.500 TO 335.599 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall issue a certificate to an individual who:
 - (a) Has received a master's or doctoral degree in counseling from a regionally accredited institution;
 - (b) Holds an active valid license or certificate from another state to practice as a professional counselor;

- (c) Is in good standing with the certifying or licensing board of that state;
 - (d) Is of good moral character;
 - (e) Has paid the application fee to the board; and
 - (f) Has provided the board with evidence of a minimum of two (2) years experience as a certified or licensed professional counselor.
- (2) The applicant shall be exempt from:
- (a) The required hours of supervised experience in the practice of counseling set out in KRS 335.525(1)(e); and
 - (b) The examination requirement set out in KRS 335.525(1)(f).

The Committee Substitute to **HB 290** is as follows:

HB 290, AN ACT relating to certified professional counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.515 is amended to read as follows:

- (1) The board shall administer and enforce the provisions of KRS 335.500 to 335.599 and shall evaluate the qualifications of applicants for certification.
- (2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 335.500 to 335.599.
- (3) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to carry out and enforce the provisions of KRS 335.500 to 335.599, including the establishment of fees.
- (4) The board may conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the function of KRS 335.500 to 335.599.
- (5) The board may issue certificates to qualified candidates.
- (6) The board may renew certificates and may require up to ten (10) continuing education hours as a condition for renewal each year.
- (7) The board may suspend or revoke certificates, impose supervisory or probationary conditions upon certificate holders, impose administrative disciplinary fines, issue written reprimands and admonishments, or perform any combination thereof.
- (8) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 335.505(1).
- (9) The board may grant retired status or inactive status to a certificate holder under conditions set out in administrative regulations promulgated by the board.
- (10) The board may employ persons as necessary to carry on its work and shall define those person's duties and fix their compensation.
- (11) The board shall promulgate by administrative regulation a code of ethics for and standards of practice of certified professional counselors.
- (12) The board may enter into reciprocal agreements with certified professional counseling boards or licensed professional counseling boards in other states with certification qualifications and requirements as high as Kentucky's.

SECTION 2. A NEW SECTION OF KRS 335.500 TO 335.599 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall license an applicant by endorsement:
- (a) Has received a master's or doctoral degree in counseling from a regionally accredited institution;
 - (b) Holds an active valid license or certificate from another state to practice as a professional counselor;
 - (c) Is in good standing with the certifying or licensing board of that state;
 - (d) Has met the educational requirements of KRS 335.525(1)(d);
 - (e) Is of good moral character;
 - (f) Has paid the application fee to the board; and
 - (g) Has provided the board with evidence of a minimum of two (2) years experience as a certified or licensed professional counselor.
- (2) The applicant shall be exempt from:
- (a) The required hours of supervised experience in the practice of counseling set out in KRS 335.525(1)(e); and
 - (b) The examination requirement set out in KRS 335.525(1)(f).

HB 409, AN ACT relating to locksmiths and locks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, the term, "locksmith," refers to any person who for compensation makes a key capable of either:
 - (a) Operating the ignition of or opening any of the locks on a motor vehicle; or
 - (b) Opening any door or other means of entrance to any residence or commercial establishment by any method involving an onsite inspection of the door or entrance.
- (2) Each locksmith shall record the information required by this section in a journal. Information shall be kept in the journal for a minimum of two (2) years from the date of its entry. The locksmith shall make this journal available for inspection by any peace officer upon request.
- (3) Before making a key, the locksmith shall obtain from the person requesting the key such identification as a reasonable and prudent person would accept as confirming that person's identity. Reasonable means of identification include, but are not limited to, a current driver's license or nondriver's identification card issued pursuant to KRS 186.412. Where the locksmith is in doubt as to the reasonableness of the identification, the locksmith may require the person to record his thumbprints in the locksmith's journal.
- (4) Before making a key, the locksmith shall record in his journal the following information:
 - (a) The date the key is made;
 - (b) The means used to confirm the identity of the person requesting the key under subsection (3) of this section;
 - (c) From the person requesting the key, the locksmith shall obtain and record the person's:
 1. Name;
 2. Residence address;
 3. Telephone number;
 4. Social Security, drivers license, or nondriver's identification card number;
 5. Date of birth;
 6. Handwritten signature; and
 - (d) Where the key is made for opening any door or other means of entrance to any residence or commercial establishment, the locksmith shall also record in the journal the street address of the residence or commercial establishment for which the key is made; and
 - (e) Where the key is made for operating the ignition of or opening any of the locks on a motor vehicle, the locksmith shall also record in the journal the vehicle identification number, the license plate number and state of issuance, and the year, make, model, and color of the motor vehicle for which the key is made.
- (5) Nothing contained in this section shall apply to the duplication of any key for a residence, commercial establishment, or motor vehicle from another such key.
- (6) The provisions of this section shall include, but are not limited to, the making of a key from key codes or impressions.
- (7) Any person who violates any provision of this section is guilty of a Class B misdemeanor.

The Committee Substitute to **HB 409** is as follows:

HB 409, AN ACT relating to locksmiths and locks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

- (1) "Lock" means a mechanical, electromechanical, electronic, or electromagnetic device or similar device, including any peripheral hardware, that is designed to control access from one area to another or that is designed to control the use of the device; and
- (2) "Locksmith" means any person who directly or indirectly engages in the business of rekeying, installing, opening, or modifying locks or who originates keys for locks. The term does not include a person whose activities are limited to making a duplicate key from an existing key.

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) A locksmith shall comply with the provisions of this section if he or she:
 - (a) Operates the ignition of or operates any lock on a motor vehicle belonging to another; or

- (b) Opens any door or other means of entrance to any residence or commercial establishment by any method involving an onsite inspection of the door or entrance for another person.*
- (2) Each locksmith shall record the information required by this section in a journal. Information shall be kept in the journal for a minimum of two (2) years from the date of its entry. The locksmith shall make this journal available for inspection by any peace officer upon request.*
- (3) Before making a key or using a device to obtain access, the locksmith shall obtain from the person requesting the key or using a device to obtain access such identification as a reasonable and prudent person would accept as confirming that person's identity. Reasonable means of identification include, but are not limited to, a current driver's license or nondriver's identification card issued pursuant to KRS 186.412. Where the locksmith is in doubt as to the reasonableness of the identification, the locksmith may require the person to record his thumbprints in the locksmith's journal.*
- (4) Before making a key or using a device to obtain access, the locksmith shall record in his journal the following information:*
- (a) The date the key is made or access is sought;*
- (b) The means used to confirm the identity of the person requesting the key or access under subsection (3) of this section;*
- (c) From the person requesting the key or access, the locksmith shall obtain and record the person's:*
- 1. Name;*
 - 2. Residence address;*
 - 3. Telephone number;*
 - 4. Drivers license or nondriver's identification card number;*
 - 5. Handwritten signature; and*
- (d) Where the key is made or other device is used for opening any door or other means of entrance to any residence or commercial establishment, the locksmith shall also record in the journal the street address of the residence or commercial establishment for which the key is made or other device is used; and*
- (e) Where the key is made or other device is used for operating the ignition of or opening any of the locks on a motor vehicle, the locksmith shall also record in the journal the vehicle identification number, the license plate number and state of issuance, and the year, make, model, and color of the motor vehicle for which the key is made or other device is used.*
- (5) The provisions of this section shall include, but are not limited to, the making of a key from key codes or impressions.*
- (6) Any person who violates any provision of this section is guilty of a Class B misdemeanor.*

The Committee on Natural Resources and Environment reported **HB 277**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 277, AN ACT relating to watershed conservancy districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.720 is amended to read as follows:

- (1) Within thirty (30) days after such petition has been filed with the board of supervisors, it shall cause due notice to be given as provided in KRS 262.010(4) of the hearing upon the practicability and feasibility of creating such subdistrict. All interested parties shall have the right to attend such hearing and be heard. If it shall appear at the hearing that other lands should be included or that lands included in the petition should be excluded, the board of supervisors may permit such inclusion or exclusion, provided the land area involved still meets the requirements of KRS 262.705.*
- (2) If it appears upon the hearing that it may be desirable to include within the proposed district, territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of a further hearing shall be given throughout the entire area considered for inclusion in the district and a further hearing shall be held. After final hearing, if the board of supervisors determines, upon the facts presented at the hearing and upon other available information, that there is need, in the interest of the public health, safety and welfare for such a district to function in the territory considered, it shall make and record the determination and shall define, by metes and bounds, or by recognizable terrain features and description, the boundaries of the watershed district.*
- (3) If the board determines after the hearing that it is not feasible for such district to function in the territory considered, it shall make and record the determination and shall deny the petition.*
- (4) If the board determines that there is a need for a conservancy district, the board of supervisors shall establish a proposed maximum budget for the maintenance of the proposed conservancy district, to be funded either by millage or*

flat rate sufficient to meet the budget.

Section 2. KRS 262.725 is amended to read as follows:

After the board of supervisors has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for creation of the proposed watershed conservancy district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon such districts in KRS 262.745 is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within a reasonable time after entry of the finding that there is need for the organization of the district and the determination of the boundaries of the district, hold a referendum within the ~~conservation~~~~proposed~~ district upon the proposition of the creation of the district to identify boundaries and give notification of funding options. Due notice of the referendum shall be given as provided in KRS 262.010 (4). Such notice shall state the date of holding the referendum, the hours of opening and closing the polls, and shall designate one or more places within the proposed district as polling places. The board shall appoint a polling superintendent and other necessary polling officers giving equal representation to the proponents and opponents of the question involved.

Section 3. KRS 262.760 is amended to read as follows:

Within the first quarter of each calendar year, the board of directors shall prepare an itemized budget of the funds needed for administration, construction, operation and maintenance of works of improvement. After approval of such budget by the board of supervisors, the board of directors shall, by order or resolution, levy a tax sufficient to meet such budget, either by millage rate or per acre rate~~[not to exceed five (5) mills per dollar of the fair cash value, as equalized by the Revenue Cabinet, of all real property within the district, except any levy necessary to provide a sinking fund for retirement of bonds authorized by KRS 262.750 and except any levy necessary to provide for the improvement, continuing operation, or maintenance of works of improvement within the district authorized by KRS 262.748. A copy of such budget and order or resolution shall be certified to the county clerk of the county or counties involved].~~

Section 4. KRS 262.763 is amended to read as follows:

- (1) An audit of the accounts of each watershed conservancy district shall take place once every four (4) years~~[annually]~~. The board of directors of each watershed conservancy district shall select to make the audit certified public accountants who have no personal interest in the financial affairs of the board of directors or in any of its officers or employees.
- (2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. This report shall be to the board of directors and in such number of copies as specified by the board of directors. Immediately following receipt of the audit report, the board of directors shall cause a summary of the report or the text of the report to be advertised for the district by publication in a newspaper of general circulation in the area encompassed by the watershed conservancy district. The actual expense of any audit authorized under this section shall be borne by the watershed conservancy district.
- (3) The board of directors shall forward a copy of the newspaper in which the audit report appeared to the State Auditor of Public Accounts.

Section 5. KRS 262.765 is amended to read as follows:

- (1) The board of directors of a watershed conservancy district shall prepare and furnish to the property valuation administrator by January 1 each year a list of the landowners in each county involved showing the real property subject to assessment, and the property valuation administrator of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the property valuation administrator by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.
- (2) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value or acreage of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the Revenue Cabinet.

The Committee Amendment No. 1 to **HB 277** is as follows:

On page 3, lines 1 and 2, by removing the brackets and strike-throughs from "A copy of such budget and order or resolution shall be certified to the county clerk of the county or counties involved"; and

On page 3, line 5, after "years", by inserting the following:

" unless the district receives or expends four hundred thousand dollars (\$400,000) or more in any year, in which case the district shall provide for the performance of an annual audit"

The Committee Amendment No. 2 to **HB 277** is as follows:

On page 2, line 19, before "Within", by inserting "(I)"; and

on line 23 by deleting the underlined language; and

starting on line 23, after "rate" by removing the brackets around, and the underlines from all the remaining language in the section; and

on page 3, after line 2, by adding the following:

"(2) In cases of districts formed after the effective date of this Act, within the first quarter of each calendar year, the board of directors shall prepare an itemized budget of the funds needed for administration, construction, operation, and maintenance of works of improvement. After approval of such budget by the board of supervisors, the board of directors shall, by order or resolution, levy a tax sufficient to meet such budget, either by millage rate or per acre rate as determined by referendum.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 456, HB 385, HB 386**

Calendar

HB 10, HB 63, HB 186, HB 218, HB 268, HB 281, HB 310, HB 94, HB 243, HB 317, HB 192, HB 221, HB 222, HB 356, HB 362, HB 372, HCR 10, HCR 13, HCR 29 and HCR 30 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 188, HB 341, HB 175, HB 204, HB 94, HB 186, HB 192, HB 222, HB 281, HB 356, HB 362, HB 372, HCR 10, HCR 13, HCR 29, and HCR 30** have been posted for passage in the Orders of the Day for January 27, 2000.

Orders of the Day

The Speaker Pro-Tem assumed the Chair.

HB 77, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HB 77**. Agreed.

Representative Treesh moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 77**. Agreed.

Representative Richards moved that **HB 77**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 1**. (See January 26, 2000 roll call on **HB 77** - Appendix.)

HB 77, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 77**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 97** and **HB 99** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:41 p.m.)

HB 97 and **HB 99** delivered to the Senate and signed by the President. Delivered to the Governor on January 26, 2000, at (Time -2:57 p.m.)

Orders of the Day (Continued)

HB 358, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of Floor Amendment No. 1 to **HB 358**. Agreed.

Representative Nunn moved that **HB 358**, as amended, be passed.

On the roll call the vote was: **Yeas 80, Nays 18**. (See January 26, 2000 roll call on **HB 358** - Appendix.)

HB 358, as amended, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 358**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 150, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of Floor Amendment No. 1 to **HB 150**. Agreed.

Representative J. Adams moved that **HB 150**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 8**. (See January 26, 2000 roll call on **HB 150** - Appendix.)

HB 150, as amended, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 150**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 342 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 342** be passed.

On the roll call the vote was: **Yeas 99, Nays 1**. (See January 26 , 2000 roll call on **HB 342** - Appendix.)

HB 342 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 342** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 81 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 81** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 26 , 2000 roll call on **HB 81** - Appendix.)

HB 81 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 81** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HCR 60** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 473, by Representative Heleringer: AN ACT relating to expungement of misdemeanor and violation conviction records.

HB 474, by Representative Nunn: AN ACT relating to professional counselors.

HB 475, by Representative Lindsay: AN ACT relating to criminal justice.

HB 476, by Representatives Geveden, A. Arnold, Riggs, Barrows, Thomas, Siler, Rasche, Coleman, Damron, Crimm, DeWeese, Horlander, Cherry, R. Adams, Nesler, J. Adams, Nunn, Heleringer, Yonts, Wilkey, Lee, Weaver, Buckingham, Marzian, Callahan, Haydon, Palmer, Moberly, Baugh, Kerr, Lindsay, Bruce, Bowling, Jenkins, Anderson, J. Turner, Gray, Riner, Treesh, Johns, Burch, Westrom, C. Belcher, Ballard, Stein, Wayne, Branham, L. Clark, P. Clark, Thompson, L. Belcher, Graham, Cave, Crall, Feeley, Stumbo, Tapp, Palumbo, and D. Butler: AN ACT relating to the consolidation of counties, and making an appropriation therefor.

HB 477, by Representatives Geveden, Colter, D. D. Butler, L. Clark, Crimm, Siler, Stacy, Walton, Ballard, P. Clark, Horlander, Baugh, Miller, Bratcher, Palmer, Tapp, Ausmus, Thompson, Palumbo, Adkins, Feeley, and Rader: AN ACT relating to the provision of telecommunication services by municipalities and municipal utilities.

HB 478, by Representative Ratliff: AN ACT relating to income taxation.

HB 479, by Representative Ratliff: AN ACT relating to income taxation.

HB 480, by Representative Kerr: AN ACT relating to death investigations.

HB 481, by Representative Adkins: AN ACT proposing to amend Section 28 of the Constitution of Kentucky relating to the separation of governmental powers.

HB 482, by Representative Worthington: AN ACT relating to license plates.

HB 483, by Representative Damron: AN ACT relating to state traffic school.

HB 484, by Representative Treesh: AN ACT proposing an amendment to Section 228 of the Constitution of Kentucky relating to the oath of office.

HR 67, by Representative Hoffman: A RESOLUTION adjourning the House of Representatives in honor of the Bluegrass Chapter of the Order of DeMolay.

HR 68, by Representative Bowling: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Edwin Kubale, Jr.

HR 69, by Representative Treesh: A RESOLUTION adjourning the House of Representatives upon the occasion of the birthday of President Ronald Reagan.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 208, HB 370, HB 449**

State Government: **SB 24, SB 25, SB 26, HB 392, HB 339, HB 123, HB 374, HCR 53, and HJR 42**

Motions, Petitions, and Communications(Continued)

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 150**, and **HB 358**. Agreed.

Representative Coleman moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 26**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Dylan Holt a student at Anderson County Middle School and a member of Youth Leadership of Anderson County, who expressed his concern about the plight of children involved in custody battles by co-writing a successful bill for the Kentucky Youth Assembly that provided for mandatory input from children involved in a custody placement hearing. The members of this august body are delighted to join Representative Jack Coleman in paying tribute to Dylan Holt, along with the other more than 1200 middle school students who attended the 39th West Regional Junior Kentucky Youth Assembly. Like the members of this honorable body, they were armed with a common goal of passing legislation they had authored and felt passionate about. Sponsored for 39 years by the YMCA, this remarkable program is designed to foster leadership abilities, exemplary character and model citizenship in the youth of our community. Therefore, the members of this distinguished body are delighted to recognize Dylan Holt for participating in the Youth Leadership Program and to welcome him as he observes this day's session of the 2000 General Assembly. Done in Frankfort, this twenty-sixth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 26 was adopted without objection.

Representative Bowling moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bowling moved the adoption of the following **HR 68**:

HR 68, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Edwin Kubale, Jr.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, Edwin Kubale, Jr., and we pause in silent reverence for his soul.

WHEREAS, Edwin Kubale, Jr., was born on April 21, 1926, a native of St. Louis, Missouri, and longtime resident of Danville, Boyle County, Kentucky, and he traversed these earthly bounds on January 24, 2000; and

WHEREAS, Edwin Kubale, Jr., was the devoted husband of Cordelia Alexander Kubale; he was the loving father of two daughters, Mariam Currey Kubale and Cordelia Kubale Pendygraft, both of Danville, and of two sons, Edwin Kubale III of Atlanta, Georgia, and James Farley Kubale of Lexington; and he was the proud grandfather of four grandchildren; and

WHEREAS, Edwin Kubale, Jr., was a graduate of Danville High School, where he was an All-State football player; and he attended the University of Kentucky, majoring in agriculture, and he belonged to the Kappa Alpha Order; and

WHEREAS, Edwin Kubale, Jr., served his country with pride as a flight engineer in the Army Air Corps during World War II; and

WHEREAS, Edwin Kubale, Jr., was an esteemed member of the Boyle County community, where he was serving his fifth term as a magistrate on the Boyle Fiscal Court; he was instrumental in the development of Millennium Park; he was an innovative and progressive farmer; recognized for his achievements in dairy farming, he was the recipient of the Outstanding Farmer award many times; he served his constituents with pride as their State Representative from the Forty-sixth Representative District during the 1956 and 1958 General Assembly sessions; he was former chairman of the Danville-Boyle County Planning and Zoning Commission; and he was a former member of the Boyle County Board of Health; and

WHEREAS, Edwin Kubale, Jr., was a devout member and elder of the Presbyterian Church in Danville, where his services will be held at noon on January 27, 2000; and

WHEREAS, the passing of Edwin Kubale, Jr., has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of our friend and colleague, Edwin Kubale, Jr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Edwin Kubale, Jr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Cordelia Alexander Kubale, Lancaster Road, Danville, Kentucky 40422.

There being no objection **HR 68** was adopted.

Representative Stumbo moved that **HB 450** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 350**. Agreed.

Representative J. Turner moved that the rules be suspended to withdraw **HB 226**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Coleman moved that he be recorded as voting "yea" on **HB 46, HB 67, HB 294, HB 357, HB 216, HB 253, and HCR 45**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to Committee Substitute to **HB 124**, by Representative Geveden:

On pages 2, 3, and 4, by deleting Section 2 of the bill in its entirety.

On page 1, line 25, and page 2, line 1, by deleting the phrase, "and this system shall recognize the requirements included in Section 2 of this Act".

Floor Amendment No. 2 to Committee Substitute to **HB 124**, by Representative Geveden:

On page 1, line 5, by inserting after the period the phrase, "Except for the two (2) committee members employed by the Department for Local Government, no advisory committee member shall receive from the Department for Local Government any salary, per diem, expense reimbursement, or other compensation or remuneration for work on the committee."

Floor Amendment No. 3 to Committee Substitute to **HB 204**, by Representative Riner:

On page 3, after line 27, by inserting the following:

"(6) Information maintained by the cabinet in paper or electronic files regarding persons substantiated for child abuse or neglect shall be made available to employers conducting background checks for persons seeking employment with child care centers and to persons conducting background checks for family child care homes. The background check shall include all records in the cabinet's possession since 1972 or earlier if records exist.

(a) Only information on substantiated findings shall be released to the person conducting the background check and to the subject of the report.

(b) Information released to the subject of the substantiated report shall include notice of the subject's right to appeal the substantiated finding of the cabinet. Notice to the subject shall be provided by registered mail at the same time information is released to the person conducting the background check."; and

On page 4, line 1, by deleting "(6)" and inserting "(7)" in lieu thereof.

Floor Amendment No. 3 to Committee Substitute to **HB 124**, by Representative Hoover:

On page 2, line 4, to delete the phrase, "funding and".

Motions, Petitions, and Communication (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 1: Representative Moberly

HB 76: Representative P. Clark

HB 115: Representative Crenshaw

HB 161: Representative Colter
HB 179: Representatives R. Adams, J. Arnold, Lee, Nesler, Richards, Treesh
HB 180: Representatives Ausmus, Cornett, Jenkins
HB 213: Representative P. Clark
HB 268: Representative P. Clark
HB 281: Representatives P. Clark, Horlander
HB 325: Representative Ratliff
HB 330: Representative P. Clark
HB 347: Representative Bather, D. D. Butler, Stewart, J. Turner
HB 371: Representative Stewart
HB 390: Representative Wayne
HB 405: Representative Feeley
HB 439: Representatives Bruce, Coleman, Crenshaw, Ford, Stein
HB 440: Representatives Baugh, Cave, Walton
HB 463: Representative Draud
HB 477: Representative Buckingham

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 305: Representative L. Belcher

Announcements

The following meetings were announced:

The Honorable Paul E. Patton will give a briefing on Fairness and Equity at the Civic Center, January 25, 2000, 4:00 p.m.

Budget Review Subcommittee on Economic Development, January 27, 2000, upon adjournment

Local Government, January 27, 2000, 8:00 a.m., Room 131

The following meeting was cancelled:

Agricultural and Natural Resources, January 27, 2000

Adjournment

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 27, 2000.

The motion that the House adjourn until 2:00 p.m., January 27, 2000, was adopted by voice vote.

JANUARY 27, 2000
SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Ronnie McKinney, Peaks Mill Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cox and Hoover.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 26, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 33**. (Time: 2:10 p.m.)

Representative Stumbo moved that the rules be suspended to grant floor privileges to special guests and to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 27**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in honor of Marilyn Clark and extends sincerest expressions of gratitude to her for the extraordinary dedication and consummate professionalism she consistently demonstrated during more than fourteen years of remarkable service to the Legislative Research Commission and the Kentucky General Assembly. She began her service to the General Assembly during the 1976 and 1984 sessions; brought her skills and grace to the Legislative Offices in 1985, serving with distinction as an Administrative Assistant in the Majority Caucus Office; and was named Chief of Leadership Staff in the Speaker's Office in 1995, where her competence and great kindness have been deeply appreciated by all those served by that office. The members of this esteemed body are delighted to join Speaker Jody Richards in paying tribute to this outstanding colleague who rightly earned the respect and appreciation of all those who have had the pleasure of working with her throughout the years and in extending very best wishes as she enjoys her well-deserved retirement. Done in Frankfort, this twenty-seventh day of January, in the year of our Lord, two thousand.

Legislative Citation No. 27 was adopted without objection.

Introduction of Bills and Resolutions

HB 485, by Representatives Fischer, Kerr, Treesh, Crall, Tapp, Walton, Reinhardt, Ausmus, Cave, and Anderson: AN ACT to promote the uniform application of civil rights laws in the Commonwealth.

HB 486, by Representatives Gray and Nunn: AN ACT relating to the unemployment insurance program and declaring an emergency.

HB 487, by Representative Anderson: AN ACT proposing an amendment to Section 148 of the Constitution of Kentucky relating to hours of elections.

HB 488, by Representatives Lee, Nunn, Moberly, Weaver, R. Adams, Haydon, Heleringer, Webb, Westrom, Collins, Burch, and J. Arnold: AN ACT relating to the transportation of persons.

HB 489, by Representatives Treesh, Stacy, Worthington, Fischer, Baugh, Crall, Cox, Walton, Kerr, J. Turner, Cornett, Heleringer, Crimm, Ford, Bratcher, Reinhardt, Cave, Rader, Tapp, Weaver, R. Adams, Upchurch, Buckingham, Ausmus, Damron, D. D. Butler, P. Clark, Horlander, Simpson, Napier, Stewart, Riner, Thomas, Polston, Hoover, Anderson, Draud, Marcotte, L. Belcher, Scott, Alexander, Colter, Ballard, Feeley, Siler, and A. Arnold: AN ACT relating to pharmacists.

HB 490, by Representatives Wayne and Stumbo: AN ACT relating to economic development.

HB 491, by Representatives J. Adams and Branham: AN ACT relating to reorganization.

HJR 70, by Representatives Webb, J. Turner, C. Belcher, Damron, Collins, Adkins, Stewart, Stacy, Geveden, Cherry, Gooch, Yonts, Cornett, Weaver, P. Clark, D. D. Butler, L. Belcher, Thompson, Crall, Napier, Feeley, and Branham: A JOINT RESOLUTION directing the Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet to enter into a memorandum of understanding regarding the underground petroleum storage tank program and declaring an emergency.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 57, SCR 15**

Appropriations and Revenue: **HB 470, HB 478, HB 479**

Banking and Insurance: **SB 40**

Education: **HB 467**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 469, HB 481, HB 484**

Health and Welfare: **HB 468, HB 474, HB 480**

Judiciary: **HB 473, HB 475**

Licensing and Occupations: **HB 472**

Local Government: **HB 471, SB 14**

State Government: **HB 476, SCR 20**

Tourism, Development, and Energy: **HB 477**

Transportation: **HB 482, HB 483**

House Floor: **HR 67, HR 69**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 173, HB 398, HB 443, HB 282, HJR 48, HJR 59, HJR 39, HJR 66**

Health and Welfare: **HB 450**

Report of Committees

The Committee on Economic Development reported **HB 381**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 381, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.4588 is amended to read as follows:

- (1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.
- (2) Grants obtained under this program shall be used for:
 - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the executive director of the Office of Coal County Development in~~secretary of~~ the Cabinet for Economic Development;
 - (b) Industrial development projects if the secretary of the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the executive director of the Office of Coal County Development in~~secretary of~~ the Cabinet for Economic Development; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for

facilities approved by the executive director of the Office of Coal County Development ~~in[secretary of]~~ the Cabinet for Economic Development under the provisions of subsection (3) of this section.

- (3) The executive director of the Office of Coal County Development ~~in[secretary of]~~ the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the executive director ~~[secretary]~~ finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The executive director ~~[secretary]~~ may also approve privately-owned facilities for transient lodging and recreation where the executive director ~~[secretary]~~ finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.
- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the executive director of the Office of Coal County Development ~~in[secretary of]~~ the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) *The Executive Director of the Office of Coal County Development in the Cabinet for Economic Development may approve an industrial development project for a coalition of a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include one (1) noncoal producing county as approved in subsection (5) of this section. For purposes of this subsection, industrial development shall include legal, accounting, engineering, and marketing expenses, in addition to activities set forth in subsection (11)(a) of this section.*
- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- ~~(8)(7)~~ Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
- ~~(9)(8)~~ Approval of grant applications shall be by the executive director of the Office of Coal County Development ~~in[secretary of]~~ the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.
- ~~(10)(9)~~ Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:
 - (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
 - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- ~~(11)(10)~~ For purposes of this section:
 - (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity,

communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; ~~and~~ other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;

- (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section; and
- (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Kentucky Economic Development Finance Authority ~~Cabinet for Economic Development~~ shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
 1. The industrial firm has made at least the minimum investment required;
 2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
 3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
 4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
 5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
 6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Office of Coal County Development in the Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met.

~~(12)~~~~(41)~~ Findings by the executive director of the Office of Coal County Development in ~~secretary of~~ the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

~~(13)~~~~(42)~~ By October 1 of each odd-numbered year, the executive director of the Office of Coal County Development in ~~secretary of~~ the Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 2. KRS 141.310 is amended to read as follows:

- (1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.
- (2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.
- (3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of

wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

- (4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.
- (5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.
- (6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.
- (7) The cabinet may, by regulations, authorize employers:
 - (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
 - (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
 - (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.
- (8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.
- (9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution if subsection (3) of Section 20 of this Act applies. ~~If the Kentucky income tax to be withheld from the employee under this section is greater than four-fifths (4/5) of the job assessment fee set forth above, the excess shall be withheld.~~ If the provisions in agreement under KRS 154.24-150(3) or (4) apply ~~is consummated~~, the offset shall be one hundred percent (100%) of the assessment.
- (10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.22-070 or KRS 154.28-110 may offset ~~a portion of~~ the fee against the Kentucky income tax required to be withheld from the employee under this section. ~~The amount of the offset shall be equal to the amount of the assessment fee withheld from the employee.~~
- (11) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee ~~If the Kentucky income tax to be withheld from the employee under this section is greater than two-thirds (2/3) of the job assessment fee set forth above,~~ or four-fifths (4/5) if the agreement under KRS 154.26-090(1)(d)2.b. is consummated ~~, the excess shall be withheld.~~
- ~~(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.22-070 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the amount of the assessment fee withheld from the employee.~~
- ~~(13)~~ Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars (\$50,000).
- ~~(13)~~~~(14)~~ The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 3. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 154.22-070(2), 154.24-110, subsections (3) and (4) of Section 21 of this Act; 154.26-100(2), or KRS 154.28-110~~154.28-090~~ shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the

calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

Section 4. KRS 141.405 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" has the same meaning as set forth in KRS 154.12-2084; and
 - (b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3)
 - (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14);
 - (b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and
 - (c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).
- (4)
 - (a) *In the case of an approved company which is an S-corporation or partnership the amount of the tax credit awarded by the Bluegrass State Skills Corporation in subsection (6) of Section 8 of this Act shall be apportioned among the shareholders or partners thereof at the same ratio as the shareholders' or partners' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in subsection (6) of Section 8 of this Act.*~~Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, limited liability partnership, or trust shall be subject to income tax on the net income attributable to the approved company's operations at the rates provided in KRS 141.020(2);~~
 - (b) *The amount of the tax credit apportioned to each shareholder or partner that may be claimed in any tax year of the shareholder or partner shall be determined in accordance with the provisions of Section 7 of this Act.*~~skills training investment credit shall be the same as the amount of the tax computed in this section or, upon the annual election of the approved company, in lieu of the skills training investment credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this subsection shall be in satisfaction of the tax liability of the shareholders, partners, or beneficiaries of the S-corporation, partnership, limited liability partnership, or trust, and shall be paid on behalf of the shareholders, partners, or beneficiaries;~~
 - (c) ~~The skills training investment credit or estimated payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6);~~
 - (d) ~~If the tax computed in this section exceeds the credit, the excess shall be paid by the S corporation, partnership, limited liability partnership, or trust at the times provided by KRS 141.160 for filing the returns; and~~
 - (e) ~~Any estimated tax payment made by the S corporation, partnership, limited liability partnership, or trust in satisfaction of the tax liability of shareholders, partners, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, or beneficiary.~~
- (5)
 - (a) *In the case of an approved company that is a trust, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in subsection (6) of Section 8 of this Act shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in subsection (6) of Section 8 of this Act.*
 - (b) *The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of Section 7 of this Act.*~~Notwithstanding any other provisions of this chapter, the net income subject to tax, the skills training investment credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, limited liability partnership, or trust.~~
- (6) ~~Any limited liability company that is treated as a corporation for federal tax purposes shall determine the skills training investment credit as provided in subsection (3) of this section.~~
- (7) ~~Any limited liability company which is treated as a partnership for federal tax purposes shall determine the skills training investment credit as provided in subsection (4) of this section.~~
- (8) ~~The Revenue Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A~~ ***adopting forms and procedures for the reporting of the credit allowed in***~~and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.12-2084 to 154.12-2089 and the allowable skills training investment credits that~~

~~an approved company may retain under]~~ KRS 154.12-2084 to 154.12-2089.

Section 5. KRS 154.12-204 is amended to read as follows:

As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

- (1) "Applicant" means an educational institution, ~~and~~ business, or industry that has made ~~joint~~ application for a grant-in-aid as authorized by KRS 154.12-205 to 154.12-208;
- (2) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- (3) "Business and industry" means a private corporation, limited liability company, registered limited liability partnership, institution, firm, person, group, or other entity or association of the same, concerned with commerce, trade, manufacturing, or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth;
- (4) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- (5) "Educational institution" means a public or nonpublic secondary or post-secondary institution or an independent institution within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level;
- (6) "Grant-in-aid" means funding that is provided to an educational institution and business and industry by the BSSC for the development or expansion of a program as provided in this chapter;
- (7) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:
 - (a) Classroom instruction;
 - (b) Classroom-related field, shop, factory, office, or laboratory work; and
 - (c) Entry level training, job upgrading, retraining, and advance training.
- (8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

Section 6. KRS 154.12-207 is amended to read as follows:

- (1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars (\$200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.
- (2) To qualify for a grant-in-aid ***in which an educational institution will provide training***, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. ***To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.***
- (3) Approval of the grant-in-aid application by the board, shall be based upon the following criteria:
 - (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
 - (b) Participants in the program must be limited to citizens of the Commonwealth;
 - (c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;
 - (d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;
 - (e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance and financial support which, together, with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid; and
 - (f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation.

Section 7. KRS 154.12-2086 is amended to read as follows:

- (1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084 to 154.12-2089, award a credit against

the Kentucky income tax imposed by KRS 141.020 or 141.040 to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars (\$500) per employee and, in the aggregate, not to exceed one hundred thousand dollars (\$100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

- (2) The skills training investment credit shall be credited on the income tax return of the approved company filed for the fiscal year ~~during~~for which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in accordance with subsection (6) of Section 8 of this Act~~(tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042).~~ The skill training investment credits allowed under KRS 154.12-2084 to 154.12-2089 shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.
- (3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in ~~the~~that tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.
- (4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.
- (5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under KRS 154.12-2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.
- (6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.
- (7) By October 1 of each year~~Ninety (90) days after the filing of the tax return of the approved company~~, the Revenue Cabinet shall certify to the Bluegrass State Skills Corporation the ~~Kentucky income tax liability for the preceding fiscal year of the approved company for which the return was filed, and the~~ amount of any skills training investment credits taken pursuant to KRS 154.12-2084 to 154.12-2089 on tax returns filed during the fiscal year ending June 30 of that year.

Section 8. KRS 154.12-2088 is amended to read as follows:

- (1) The Bluegrass State Skills Corporation shall establish guidelines and standards for approving skills training investment credits for occupational upgrade training and skills upgrade training. The guidelines and standards may include, but are not limited to: required hours of classroom instruction; required courses; certification of teachers or instructors, whether independent contractors or employees of a qualified company; certification of providers; progressive levels of instruction; and standardized measures of employee evaluation to determine successful completion of a course of study.
- (2) To apply for skills training investment credits under KRS 154.12-2084 to 154.12-2089, a qualified company shall submit an application to the Bluegrass State Skills Corporation before commencing its program of occupational upgrade training or skills upgrade training. The application submitted by the qualified company shall contain information the Bluegrass State Skills Corporation requires including, but not limited to:
 - (a) A proposal for a program of occupational upgrade training or skills upgrade training;
 - (b) A description of each component of the proposed training program and the number of employee training hours requested;
 - (c) ~~A~~An itemized statement of all anticipated costs and expenses of the training program, including~~a breakdown of~~ the costs and expenses associated with employee wages, equipment, personnel, facilities, and materials; and
 - (d) Auditing procedures and reporting methods for the submission of information and data to the Bluegrass State Skills Corporation.
- (3) After a review of applications for skills training investment credits, the Bluegrass State Skills Corporation may designate the qualified company as a preliminarily approved company and preliminarily approve the amount of skills training investment credits that the qualified company shall be eligible to receive. The maximum amount of skills training

investment credits preliminarily approved for all qualified companies by the Bluegrass State Skills Corporation for fiscal year 1998-1999 and fiscal year 1999-2000 shall not exceed one million dollars (\$1,000,000) and shall not exceed two million five hundred thousand dollars (\$2,500,000) for each fiscal year thereafter. Skills training investment credits shall be allocated to qualified companies in the same order preliminary approval is granted by the Bluegrass State Skills Corporation. Skills training investment credits that remain unallocated by the Bluegrass State Skills Corporation at the end of its fiscal year shall lapse and shall not be carried forward to a new fiscal year.

- (4) The preliminarily approved company shall complete all programs of occupational upgrade training or skills upgrade training within one (1) year from the date of the preliminary approval of the skills training investment credits by the Bluegrass State Skills Corporation and shall certify the completion of these programs to the Bluegrass State Skills Corporation.
- (5) The preliminarily approved company shall maintain in its employment the employees receiving occupational upgrade or skills upgrade training for a minimum of ninety (90) days following the completion of the program of occupational upgrade training or skills upgrade training and shall certify to the Bluegrass State Skills Corporation the number of employees who remained in the employment of the preliminarily approved company for the full ninety (90) day period.
- (6) If a qualified company concludes its training program within the prescribed one (1) year and receives the required certifications described in subsections (4) and (5) of this section, then the Bluegrass State Skills Corporation shall adopt a final authorizing resolution approving the amount of skills training investment credits awarded to the preliminarily approved company in accordance with KRS 154.12-2084 to 154.12-2089. The adoption of a final authorizing resolution shall be contingent upon the Bluegrass State Skills Corporation's approval of documentation submitted by the preliminarily approved company supporting all incurred approved costs. If one (1) or more of the employees of the preliminarily approved company failed to continue in the employment of the company for ninety (90) days following the completion of the prescribed one (1) year, then the amount of the skills training investment credits preliminarily approved for a qualified company shall be reduced on a pro rata basis for each employee who failed to continue employment with the preliminarily approved company through the ninety (90) day period. The final amount of the skills training investment credits awarded to the approved company shall not exceed the amount of skills training investment credits that the approved company was preliminarily approved for by the Bluegrass State Skills Corporation prior to commencement of the training program.

Section 9. KRS 154.20-253 is amended to read as follows:

As used in KRS 154.20-250 to 154.20-284, unless the context clearly requires otherwise:

- (1) "Administrative expenses and fees" means expenses and fees incurred by the investment fund in connection with the management and administration of qualified investments;
- (2) "Agreement" means an investment fund agreement entered into pursuant to KRS 154.20-257(2) by the authority and an investment fund manager on behalf of the investment fund, the investment fund manager, and any investor in the investment fund;
- (3) "Applicant" means any person or entity who has not received ~~approval~~~~[certification]~~ from the authority as an investment fund manager, but who has or will submit an application to the authority for ~~approval~~~~[certification]~~ as an investment fund manager;
- (4) "Authority" means the Kentucky Economic Development Finance Authority;
- (5) "Cash contribution" means an investment of money by an investor in an investment fund under the terms of KRS 154.20-250 to 154.20-284;
- (6) "Commonwealth" means the Commonwealth of Kentucky;
- (7) "Credit" means a credit against state income or license tax liability awarded by the authority pursuant to KRS 154.20-263 for cash contributions to investment funds;
- (8) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (9) "Financial institution" means any banking corporation or association, trust company, savings and loan association, savings bank, credit union, or other entity principally engaged in the business of lending money or receiving or soliciting money on deposit;
- (10) "Investment fund" means any entity that is organized by an investment fund manager in compliance with applicable state and federal securities laws and regulations, and is ~~approved~~~~[certified]~~ by the authority to be capitalized with cash contributions pursuant to KRS 154.20-250 to 154.20-284;
- (11) "Investment fund manager" means any person or entity that is authorized to act in such capacity by any applicable securities regulator and that has been ~~approved~~~~[certified]~~ by the authority to manage one (1) or more investment funds authorized under the provisions of KRS 154.20-250 to 154.20-284;
- (12) "Investor" means any person or entity, other than a financial institution or an insurance company that is subject to state tax

liability and that makes a cash contribution to an investment fund in accordance with the provisions of KRS 154.20-250 to 154.20-284;

- (13) "Qualified activity" means any industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, agricultural enterprise, or agribusiness activity. A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any other activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-250 to 154.20-284, or in violation of any law;
- (14) "Qualified investment" means a contribution of money to a small business by an investment fund, in compliance with applicable state and federal securities laws and regulations, seeking a financial return based upon that contribution and in consideration for which the investment fund acquires or receives any of the following:
- (a) 1. An equity interest in the small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached; or
 2. An unsecured debt instrument the maturity date of which is longer than one (1) year and which is made or issued by the small business; or
 - (b) Any other debt instrument issued or made by the small business.

Excluding any investment of money that has not been ~~approved~~~~[certified]~~ by the authority as a cash contribution under KRS 154.20-250 to 154.20-284, fifty percent (50%) or more of any investment fund shall be held in interests or debt instruments as specified in paragraph (a) of this subsection;

- (15) "Small business" means any entity which at the time a qualified investment is made by an investment fund:
- (a) Has net worth of three million dollars (\$3,000,000) or less and net income after federal income taxes for each of the two (2) preceding fiscal years of two million dollars (\$2,000,000) or less;
 - (b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the making of a qualified investment by an investment fund;
 - (c) Has no more than one hundred (100) employees; and
 - (d) Has more than fifty percent (50%) of its assets, operations, and employees located in Kentucky.

The criteria set forth in paragraphs (a) and (c) of this subsection do not apply to any second or subsequent qualified investments.

Section 10. KRS 154.20-257 is amended to read as follows:

- (1) The authority may commence ~~approval~~~~[certification]~~ of investment funds, cash contributions, and investment fund managers on or after July 1, 1999. No tax credit authorized by KRS 154.20-263 shall become effective until the investment fund to which the cash contribution is made and from which the credit accrues, has been implemented in compliance with applicable state and federal securities laws and regulations. Any investor whose cash contribution to an investment fund has been ~~approved~~~~[certified]~~ by the authority shall be entitled to a credit equal to forty percent (40%) of that cash contribution as provided in KRS 154.20-263. Except as otherwise provided in KRS 154.20-261(6), any investment of money made to an investment fund shall not be considered a part of the investment fund for purposes of KRS 154.20-250 to 154.20-284 and accordingly shall not be subject to the requirements of KRS 154.20-250 to 154.20-284 unless the investment of money has been ~~approved~~~~[certified]~~ by the authority as a cash contribution under KRS 154.20-250 to 154.20-284. A person or entity seeking to be ~~approved~~~~[certified]~~ as an investment fund manager for the operation of one (1) or more investment funds shall make written application to the authority pursuant to KRS 154.20-259, in addition to complying with applicable state and federal securities laws and regulations.
- (2) (a) ~~Subsequent to approval~~~~[Concurrent with certification]~~ of the investment fund and the investment fund manager, the authority and the investment fund manager, on behalf of itself and any investors in the investment fund, shall enter into an agreement with respect to the investment fund. The terms and provisions of each agreement shall be determined by negotiations between the authority and the investment fund manager. If an investment fund manager or any investor in an investment fund fails to comply with their respective obligations under the agreement, the authority may, at its option do any one (1) or more of the following:
1. Suspend the availability of the credits;
 2. Pursue any remedy provided under the agreement, including termination of the agreement; or
 3. Pursue any other remedy at law to which it may be entitled.
- (b) All remedies provided in this subsection are cumulative.

- (3) At least one million dollars (\$1,000,000) in cash contributions approved for tax credits shall be transferred into the investment fund within ninety (90) days from the effective date of the agreement between the authority and the investment fund manager. The effective date of the agreement shall be the date of ~~approval~~certification of the investment fund and the investment fund manager by the authority. All cash contributions in excess of one million dollars (\$1,000,000) that have been approved for tax credits as provided in KRS 154.20-250 to 154.20-284 in connection with the initial ~~approval~~certification of the investment fund shall be transferred into the investment fund within one (1) year of the effective date of the agreement.
- (4) An investment fund shall invest cash contributions in qualified investments according to the following schedule:
- (a) On average during the second year after the effective date of the agreement, at least twenty-five percent (25%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;
 - (b) On average during the third year after the effective date of the agreement, at least fifty percent (50%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;
 - (c) On average during the fourth year after the effective date of the agreement, at least seventy-five percent (75%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;
 - (d) On average during the fifth year after the effective date of the agreement, at least ninety percent (90%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;
 - (e) On average during the sixth year after the effective date of the agreement, at least seventy-five percent (75%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses;
 - (f) On average during the seventh year after the effective date of the agreement, at least fifty percent (50%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses; and
 - (g) On average during the eighth year after the effective date of the agreement, at least twenty-five percent (25%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses.

For purposes of determining the percentage invested in small businesses on average during any particular year pursuant to this section, the amount invested in small businesses shall be the average amount so invested at the end of each calendar month during the year, and the amount of the investment fund required to be invested shall be the aggregate amount of cash contributions ~~approved~~certified by the authority.

- (5) No tax credits shall be awarded by the authority for cash contributions to investment funds after December 31, 2004. No investment funds or investment fund managers shall be ~~approved~~certified by the authority after December 31, 2003.

Section 11. KRS 154.20-259 is amended to read as follows:

- (1) The ~~approval~~certification of investment funds and investment fund managers shall be made pursuant to an application to the authority, upon compliance with any applicable state and federal securities laws and regulations or a statement by the investment fund and the investment fund manager that such compliance will be obtained either simultaneously with or prior to submission of such application to the authority. In the application, the applicant shall disclose to the authority the following information, all of which shall be considered by the authority in ~~approving~~certifying investment funds and investment fund managers:
- (a) The applicant's business plan, including the maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;
 - (b) The total amount of commitments for cash contributions the applicant has received from potential investors, including receipt of not less than one million dollars (\$1,000,000) in cash contributions deposited in an escrow account established in accordance with KRS 154.20-261(6);
 - (c) The name, address, and tax identification or Social Security number of each potential investor and the amount of cash contributions each potential investor has committed to the proposed investment fund;
 - (d) The relevant experience of the applicant or the applicant's management, and their demonstrated ability to manage the proposed investment fund;
 - (e) A process for disclosing to investors the tax credits available to investors pursuant to KRS 154.20-250 to 154.20-284, which shall include, but not be limited to, the disclosures described in KRS 154.20-261(7);
 - (f) The location and account number of an escrow account that has been established for investors for the period of time between receipt of cash contributions by the applicant and the ~~approval~~certification of the investment fund and the investment fund manager by the authority;

- (g) The disclosure documents to be used in connection with the offering and investment in the investment fund;
 - (h) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to such offering, in compliance with applicable state and federal securities laws and regulations; and
 - (i) Any additional information the authority deems necessary or appropriate. An investment fund manager seeking to have ~~approved~~certified additional cash contributions to ~~an approved~~a certified investment fund shall submit to the authority a written amendment to the application in a form acceptable to the authority.
- (2) The contents of applications submitted to the authority by applicants shall be treated as confidential by the Commonwealth and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.
 - (3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law, all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of KRS 154.20-250 to 154.20-284, including, but not limited to, power to:
 - (a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;
 - (b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and
 - (c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to such investment fund manager's investment fund.

- (4) An investment fund's stated purpose shall be to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.
- (5) The criteria considered by the authority for the ~~approval~~certification of investment fund managers shall include, but not be limited to, compliance by those persons with applicable state and federal securities laws and regulations, a review of the applicant and its business plan, the investment strategy for the investment fund, the relevant experience of the applicant or the applicant's management, and the applicant's demonstrated ability to manage the investment fund, and the receipt by the applicant of aggregate cash contributions from investors to the investment fund of not less than one million dollars (\$1,000,000).
- (6) Following ~~approval~~certification of an investment fund and an investment fund manager and execution of the agreement by the authority and the investment fund manager, the authority shall provide each investor whose cash contribution has been ~~approved~~certified by the authority with a certificate setting forth the amount of the tax credits the investor shall be entitled to receive under KRS 154.20-263. Following ~~approval~~certification of any additional cash contributions to an investment fund after the initial ~~approval~~certification of the investment fund, the authority shall provide each investor making an additional cash contribution with a certificate setting forth the amount of additional credits the investor shall be entitled to receive under KRS 154.20-263. Each investor shall file a copy of the certificate with the investor's state tax return ~~[in accordance with KRS 154.20-269]~~.
- (7) The authority may establish additional procedures and standards as it deems necessary for the ~~approval~~certification of investment funds and investment fund managers by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

Section 12. KRS 154.20-261 is amended to read as follows:

- (1) An investment fund manager shall have a business office located within the Commonwealth. That office shall have a listed telephone number and shall be open to the public during normal business hours.
- (2) The initial capitalization of an investment fund with cash contributions from investors shall not be less than one million dollars (\$1,000,000). Any investment of moneys received by the investment fund in excess of the maximum amount of cash contributions proposed to be solicited in the application shall not be eligible for tax credits. In no event shall any investment of money received by the investment fund in excess of ten million dollars (\$10,000,000) be eligible for credits. Cash contributions for all investment funds shall be raised after July 15, 1998.
- (3) Total qualified investments made by an investment fund, including initial and subsequent investments made by an investment fund, in any single small business using ~~approved~~certified cash contributions shall not exceed twenty-five percent (25%) of the cash contributions in the investment fund; provided that this restriction shall not apply to investments of money that have not been ~~approved~~certified as cash contributions under KRS 154.20-250 to 154.20-284.
- (4) An investment fund manager may operate separate investment funds pursuant to separate applications submitted to and approved by the authority, and assuming this activity is in compliance with any applicable state and federal securities laws

and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

- (5) Following the initial ~~approval~~[certification] of an investment fund, any additional cash contributions to that investment fund shall be ~~approved~~[certified] by the authority.
- (6) An investment fund manager seeking to establish an investment fund, or to increase the amount of cash contributions to an existing investment fund, shall establish an escrow account with a financial institution located within the Commonwealth into which cash contributions shall be deposited and held for the period of time between their receipt by the investment fund manager and either ~~approval~~[certification] by the authority of the investment fund, or the ~~approval~~[certification] by the authority of the increased cash contributions, whichever is later. No qualified investments shall be made using cash contributions until the new or expanded investment fund is ~~approved~~[certified] by the authority. If the authority denies ~~approval~~[certification] of the new or expanded investment fund, all cash contributions received by the applicant relating to the new or expanded investment fund shall be returned to investors within ten (10) calendar days.
- (7) An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an expanded investment fund, shall disclose in advance in writing to each investor, in addition to any other items required by law, that:
 - (a) No tax credit will be available under the provisions of KRS 154.20-250 to 154.20-284 until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations, have been ~~approved~~[certified] by the authority, and an agreement between the authority and the investment fund manager on its behalf and on behalf of the investors has been executed, and the terms of that agreement have been disclosed in writing to each investor;
 - (b) No tax credit will be available under the provisions of KRS 154.20-250 to 154.20-284 until the investor's cash contribution to the investment fund has been ~~approved~~[certified] by the authority; and
 - (c) The Commonwealth shall be immune from liability for any losses or damages investors may incur in connection with any cash contributions made to an investment fund or any qualified investments made by an investment fund in small businesses.

Section 13. KRS 154.20-263 is amended to read as follows:

- (1) An investor shall be entitled to a nonrefundable credit against the income tax imposed by KRS 141.020 or 141.040, or the corporation license tax imposed by 136.070 in any tax year after December 31, 1998, during which a cash contribution to ~~an approved~~[a certified] investment fund is made. The aggregate tax credit amount available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to an investment fund. The aggregate tax credit amount available to each investor shall be ~~approved~~[certified] by the authority as provided in KRS 154.20-259(6).
- (2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed twenty-five percent (25%) of the initial aggregate credit amount ~~approved~~[certified] by the authority as available to the investor.
- (3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section exceeds the investor's combined income tax and corporate license tax liabilities for that year, the investor may carry the excess tax credit forward until the tax credit is used, provided that the carry forward of any excess tax credit shall not increase the twenty-five percent (25%) limitation established by subsection (2) of this section, and provided further that any tax credits not used within fifteen (15) years of the initial ~~approval~~[certification] by the authority of the aggregate tax credit amount available to the investor shall be lost.
- (4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, or any other additions to the investor's tax liability.
- (5) **Except as set forth in this subsection, the tax credits allowed by this section are not transferable. If an individual investor dies, the estate or beneficiaries may withdraw the initial investment from the investment fund with no penalty from the investment fund and no requirement to repay the Revenue Cabinet any credits which the investor may have taken, provided the investor has complied with the provisions of KRS 154.20-250 to 154.20-284. If the investor is other than an individual and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.**

Section 14. KRS 154.20-267 is amended to read as follows:

- (1) The total amount of credits ~~approved~~[certified] by the authority for any single investment fund shall not exceed, in the aggregate, four million dollars (\$4,000,000) for all investors and all taxable years. If aggregate cash contributions to a single investment fund exceed ten million dollars (\$10,000,000) for all investors for all taxable years, the authority shall allocate credits to investors in the order that cash contributions are made by investors to the investment fund.
- (2) The total credits ~~approved~~[certified] by the authority for all investors in all investment funds shall not exceed:
 - (a) Five million dollars (\$5,000,000), in the aggregate, during the period from July 1, 1999, through June 30, 2000;
 - (b) Ten million dollars (\$10,000,000), in the aggregate, during the period from July 1, 2000, through June 30, 2001, including credits authorized by the authority in the prior year;
 - (c) Fifteen million dollars (\$15,000,000), in the aggregate, during the period from July 1, 2001, through June 30,

2002, including credits authorized by the authority in prior years; and

- (d) Twenty million dollars (\$20,000,000), in the aggregate, from July 1, 2002, and thereafter, including credits authorized by the authority in prior years.

The authority shall approve the credits to investors in the order that investment funds and investment fund managers are ~~approved~~certified by the authority.

Section 15. KRS 154.20-269 is amended to read as follows:

- (1) To receive the credit provided by KRS 154.20-263, an investor shall ~~must~~
 - ~~(a) claim the credit on the investor's annual state tax returns in the manner prescribed by the Revenue Cabinet;~~
 - ~~(b) File with the Revenue Cabinet and with the investor's annual state tax returns a copy of the disclosure form submitted by the investment fund manager under subsection (2) of this section; and~~
 - ~~(c) File with the Revenue Cabinet and with the investor's annual state tax returns a copy of the certification of the investor's credit, issued by the authority under KRS 154.20-259(6) at the time of certification of the investment fund and of the investment fund manager and at the time of certification of additional cash contributions, as applicable.~~
- ~~(2) Each investment fund manager shall complete disclosure forms promulgated by the Revenue Cabinet as administrative regulations under KRS Chapter 13A, detailing the following information with respect to each cash contribution:~~
 - ~~(a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;~~
 - ~~(b) The name, address, and Social Security number or employer identification number, as applicable, of each investor; and~~
 - ~~(c) The total amount of all cash contributions made by each investor.~~
- ~~(3) The disclosure forms required under subsection (2) of this section shall be filed by the investment fund manager with the Revenue Cabinet and the authority within thirty (30) days after receipt of certification from the authority. Copies of these forms shall be mailed to each investor by the investment fund manager on or before that same date.~~
- ~~(4) The contents of an investor's filings under subsection (1) of this section and the disclosure form required under subsection (2) of this section shall be treated by the authority and by the Revenue Cabinet as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.~~

Section 16. KRS 154.20-271 is amended to read as follows:

- (1) Subject to KRS 154.20-257(4), if a cash contribution which is the basis for a credit under the provisions of KRS 154.20-250 to 154.20-284 is redeemed by the investment fund, or if the investment fund allows the cash contribution to be withdrawn by the investor within five (5) years after the date of ~~approval~~certification of the cash contributions by the authority, the credit provided by KRS 154.20-263 for that cash contribution shall be disallowed, and the investor shall pay to the State Treasurer an amount equal to the amount of credits previously claimed with respect to those cash contributions, plus interest at the rate of two percent (2%) per month, compounded monthly from the date credits were taken by the investor. This payment shall be included with the investor's state tax return or returns for the period in which the redemption or withdrawal occurred. When payments are made to the State Treasurer under this section, the amount remitted shall be handled in the same manner as if no credit had been allowed.
- (2) An investment fund that fails to make or maintain investments in small businesses pursuant to KRS 154.20-250 to 154.20-284, or that otherwise violates the provisions of KRS 154.20-250 to 154.20-284, shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors making cash contributions to the investment fund, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the cash contributions were ~~approved~~certified by the authority. If the investment fund fails to pay the penalty and interest in full as required by the Revenue Cabinet, each investor shall be personally liable to the Revenue Cabinet for that investor's pro rata share of the unpaid penalty and the investment fund manager shall be liable to the Revenue Cabinet for all such interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. An investor's pro rata share shall be determined by dividing the total amount of cash contributions made by the investor in the investment fund, by the total amount of cash contributions made by all investors in the investment fund. The secretary of the Revenue Cabinet shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The secretary of the Revenue Cabinet may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of KRS 154.20-250 to 154.20-284, or to otherwise comply with the provisions of KRS 154.20-250 to 154.20-284. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.
- (3) The administration of this section shall be the responsibility of the Revenue Cabinet.

Section 17. KRS 154.20-273 is amended to read as follows:

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- (1) Each investment fund manager shall file semiannual reports with the secretary of the Revenue Cabinet and with the authority, on or before the sixtieth day, and the two-hundred-fortieth day, of each fiscal year of the investment fund. These reports shall include information that the authority prescribes from time to time, including, but not limited to, the following:
 - (a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund in the small business during the reporting period, and the job creation anticipated and achieved by the small business during the reporting period;
 - (b) An affidavit from each small business in which a qualified investment was made during the reporting period, prepared by any authorized officer, partner, trustee, member, or manager of the small business, which sets forth:
 1. That the small business qualifies as a small business under KRS 154.20-250 to 154.20-284; and
 2. A brief description of the activities of the small business;
 - (c) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund manager pertaining to:
 1. Each small business in which a qualified investment has been made, including, without limitation, qualified investments made prior to the reporting period, that sets forth:
 - a. That each small business is or continues to be, as applicable, actively and principally engaged in a qualified activity; and
 - b. That each small business qualifies as a small business under the provisions of KRS 154.20-250 to 154.20-284;
 2. The amount of each distribution to an investor and redemption of cash contributions made by the investment fund during the reporting period and in the aggregate since the date of approval~~certification~~ of the investment fund;
 3. The name and address of each investor, and the amount and date of the cash contribution to the investment fund of each investor who is entitled to the credit; and
 4. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations; and
 - (d) A statement from the investment fund manager as to the securities exemption or registration provision relied upon by the small business with respect to the qualified investment by the investment fund in the small business.
- (2) The authority shall provide quarterly written status reports to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate, concerning the activities of the Kentucky Investment Fund for each three (3) month period beginning July 1, 1999. On or before November 1 of each year, the authority shall make an annual report for the fiscal year ending the preceding June 30 to the Governor and the Legislative Research Commission. The quarterly status report and the annual report shall include, but not be limited to, the following information:
 - (a) The total number of investors and the aggregate amount of cash contributions to all investment funds, categorized by the types of entities through which investors conduct business, amounts of cash contributions, and geographical distribution of investors, including area development districts; and
 - (b) The total number and amounts of qualified investments made by each investment fund, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed.
- (3) The contents of the semiannual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.
- (4) The authority may charge a fee in connection with the administration and processing of semiannual reports made by investment fund managers.

Section 18. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project, upon adoption of a resolution authorizing the financing agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

- (1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:
 - (a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the

economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

- (b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.
- (c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.
- (d)
 - 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.
 - a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus
 - b. The aggregate assessment withheld by the approved company in each year.
 - 2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.
- (e)
 - 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.
 - 2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.
 - 3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.
 - 4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.
- (f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and
 2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and
 - a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;
 - b. Pursue any remedy provided under the financing agreement or other such documents;
 - c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;
 - d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and
 - e. Pursue any other remedy at law to which it appears entitled.
 3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.
- (2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:
- (a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:
 1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or
 2. Fifteen (15) years from the activation date.
 3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.
 - (b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.
 - (c) 1. The approved company may be permitted the following during the term of the financing agreement:
 - a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus
 - b. The aggregate assessment withheld by the approved company in each year.
 2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.
 - (d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.
 2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for

the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.
4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.
- (e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.
- (f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.
- (g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:
 1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;
 2. Pursue any remedy provided under the financing agreement, including termination thereof; and
 3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

Section 19. KRS 154.22-060 is amended to read as follows:

- (1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the total debt service paid:
 - (a) Under the financing agreement in connection with the economic development project financed by bonds as described in KRS 154.22-050(1); or
 - (b) On loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project, as described in KRS 154.22-050(2).
- (2) **By October 1 of each year** ~~Ninety (90) days after the filing of the tax return of the approved company,~~ the Revenue

Cabinet of the Commonwealth shall certify to the authority *in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements*~~the Kentucky income tax liability for the preceding fiscal year of the approved company for which the return was filed with respect to an economic development project financed through the issuance of bonds, loans or other financing incurred in connection with the economic development project and the amounts of any tax credits and job development assessment fees taken pursuant to KRS 154.22-010 to 154.22-080].~~

Section 20. KRS 154.24-110 is amended to read as follows:

- (1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.
 - (a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and
 - (b) *By October 1 of each year*~~Ninety (90) days after the filing of the income tax return of the approved company]~~, the Revenue Cabinet ~~of the Commonwealth~~ shall certify to the authority, *in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements*~~the Kentucky income tax liability of the approved company with respect to an economic development project for the preceding fiscal year of the approved company for which the return was filed, and the amounts of any tax credit allowed pursuant to KRS 141.407 and service and technology job development assessment fees taken pursuant to KRS 154.24-010, 154.24-090, 154.24-100, 154.24-120, 154.24-140, and 154.24-150, and this section].~~
- (2) The approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.
 - (a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;
 - (b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forego the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;
 - (c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;
 - (d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;
 - (e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and
 - (f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.
- (3) *Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forego all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the*

percentage of the local occupational license fee that the local government has agreed to forego. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forego.

Section 21. KRS 154.24-150 is amended to read as follows:

- (1) Before any agreement as prescribed in KRS 154.24-120 shall become effective, the legislative body of any local jurisdiction which may lose revenue as a result of the inducements offered pursuant to KRS 154.24-010 to 154.24-150 and which assesses a local occupational license fee shall approve by official action the granting of inducements to the approved company. If a local jurisdiction which satisfies the requirements of the previous sentence of this subsection does not approve the granting of the inducements or does not elect to provide in lieu of credits as described in subsection (2) of this section, then an approved company shall not be permitted to impose assessments against the wages of its employees.
- (2) Subject to the prior written approval of the authority of any proposed in lieu of credits, the local government may elect, by vote of its legislative body, to provide for in lieu of credits for the approved company and its economic development project.
- (3) If the local government elects to provide in lieu of credits as described in subsection (2) of this section, the assessment authorized by KRS 154.24-110 shall be four percent (4%), one hundred percent (100%) of which shall be permitted as a credit against Kentucky income tax withheld pursuant to KRS 141.350.
- (4) If a local jurisdiction in which the economic development project is to be located does not assess a local occupational license fee and does not elect to provide in lieu of credits as described in subsection (2) of this section, the assessment authorized by KRS 154.24-110 shall be four percent (4%), one hundred percent (100%) of which shall be permitted as a credit against Kentucky income tax withheld pursuant to KRS to KRS 141.350.
- (5) If a local jurisdiction in which the economic development project is to be located, approves the inducements in accordance with subsection (1) of this section, assesses less than a one percent (1%) local occupational license fee, and does not elect to provide in lieu of credits as described in subsection (2) of this section, then the approved company may require that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay a service and technology job creation assessment fee ~~in an amount determined by the percentage local occupational license fee, which shall be one fifth (1/5) of the total service and technology assessment fee, but in no event to exceed five percent (5%) of the gross wages~~ as prescribed in KRS 154.24-110(2) **or (3), as applicable**, provided that each employee paying the assessment shall only be entitled to credits against his Kentucky income tax as prescribed in subsection (2)(a) **or (3) of Section 20 of this Act, as applicable** ~~of KRS 154.24-110~~ and to credits against his local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction.
- (6) If a local jurisdiction in which the economic development project is to be located does not assess a local occupational license fee and elects to provide in lieu of credits as described in subsection (2) of this section, then the assessment shall be in accordance with subsection (3) of this section.
- (7) Subsection (4) of this section shall apply only to those approved companies which enter into service and technology agreements with the authority after July 15, 1996.

Section 22. KRS 154.26-100 is amended to read as follows:

- (1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, six percent (6%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project. However, if the appropriation agreement is consummated, the assessment shall be five percent (5%) of each employee's gross wages subject to the income tax imposed by KRS 141.020.
- (2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to two-thirds (2/3) of the assessment; or if the appropriation agreement is consummated, the credit shall be equal to four-fifths (4/5) of the assessment.
- (3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-sixth (1/6) of the assessment, unless the appropriation agreement is consummated.
- (4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.
- (5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.
- (6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall

permanently lapse upon expiration or termination of the agreement.

- (7) ~~*By October 1 of each year*~~~~[Ninety (90) days after the filing of the tax return of the approved company], the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements~~~~[the Kentucky income tax liability for the preceding fiscal year of the approved company for which the return was filed of each approved company with respect to an economic development project financed through the issuance of bonds, loans, or other financing incurred in connection with the economic development project and the amounts of any tax credits and job revitalization assessment fees taken pursuant to KRS 154.26-010, 154.26-080, 154.26-090, and this section].~~

Section 23. KRS 154.28-090 is amended to read as follows:

- (1) The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:
- (a) The term of an agreement, which shall commence on the date of the agreement, shall not be longer than the earlier of the following:
 1. The maturity of loans or other financing incurred in connection with the economic development project, except that the agreement may be terminated upon the earlier prepayment of loans or other financing incurred in connection with the economic development project; or
 2. Ten (10) years from the activation date of the original agreement.
 - (b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.
 - (c) In consideration for the execution and during the term of the agreement, the approved company shall be permitted either of the following during the term of the agreement:
 1. A credit against Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic development project as determined by KRS 141.400; or
 2. The aggregate assessment withheld by the approved company in each year.
- (2) The agreement shall provide that:
- (a)
 1. The assessments, if applicable, shall not exceed the annual payments of the total financing agreement by the approved company in any year; however, to the extent that the financing agreement annual payments exceed assessments collected in any year, the excess payment may be recouped from assessment collections in succeeding years.
 2. If in any fiscal year of the approved company during which the financing agreement is in effect the total assessments collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax withholdings from employees' wages for the remainder of that fiscal year.
 - (b) The Kentucky income tax credit, in any fiscal year of the approved company, shall not exceed the total debt service paid during the same fiscal year with respect to the loans or other financing incurred in connection with the economic development project; however, to the extent that annual debt service payments exceed the annual income tax credits in any year, the excess debt service payments may be recouped from excess tax credits in succeeding years.
 - (c) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.042.
 - (d) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

- (e) An approved company shall require of any lender to an approved company funding the loans or other financing incurred in connection with the economic development project, written evidence of all annual debt service to the lender, which evidence shall be provided in writing to the authority within forty-five (45) days following the close of each fiscal year of the financing agreement.
- (f) If an approved company fails to comply with its respective obligations under the financing agreement, the lender to an approved company fails to comply with the provisions of subsection (2)(e) of this section, or an approved company is declared in default under the loans or other financing incurred in connection with the economic development project, the authority, or any of its assignees, may, at its option:
 - 1. Suspend the availability of the income tax credits or job development assessment fees, as applicable;
 - 2. Pursue any remedy provided under the financing agreement, including termination of the agreement; and
 - 3. Pursue any other remedy at law to which it may appear entitled.
- (3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative.
- (4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement which shall be at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the financing agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of an economic development project under KRS 154.28-010(9) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company will not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies these requirements; however, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.
- (5) ~~By October 1 of each year~~~~[Ninety (90) days after the filing of the tax return of the approved company]~~, the Revenue Cabinet shall certify to the authority, **in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements**~~the income tax liability, for the preceding fiscal year of the approved company for which the return was filed, of the approved company with respect to an economic development project receiving inducements under the provisions of KRS 154.28-010 to 154.28-090 and KRS 141.400, and the amount of any income tax credits taken pursuant to KRS 154.28-010 to 154.28-090 and KRS 141.400]~~.

Section 24. KRS 154.29-050 is amended to read as follows:

- (1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:
 - (a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;
 - (b) A date certain by which the approved company shall have completed the tourism attraction project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and
 - (c) The following provisions:
 - 1. The term shall be ten (10) years from the later of:
 - a. The date of the final approval of the project; or
 - b. The completion date specified in the agreement, if this completion date is within two (2) years of the date of the final approval of the project;
 - 2. Within forty-five (45) days after the end ~~[of each half]~~ of each fiscal year of the approved company, **during the term of the agreement**, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 154.29-010 to 154.29-060. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section; and
 - 3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to

any fiscal year if:

- a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or
 - b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.
- (2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.
 - (3) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010, excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 154.29-010.

Section 25. The following KRS section is repealed:

154.22-055 Financing agreement -- Adoption -- Publication.

Section 26. Section 1 of this Act takes effect only if legislation is enacted during the 2000 Regular Session confirming the reorganization of the Office of Coal County Development as set out in Resolution No. 99-2, adopted December 13, 1999. Otherwise, Section 1 of this Act shall be null and void.

Section 27. Subsections (4) and (5) of Section 4 and subsections (2) and (3) of Section 7 of this Act shall apply to taxable years beginning after December 31, 1999.

The Committee Amendment No. 1 to **HB 381** is as follows:

On page 3, line 3, following "development", insert "project".

The Committee on Local Government reported **HB 236**, **HB 301**, **HB 302**, with Committee Amendment attached thereto, **HB 328**, **HB 331**, **HB 335**, and **HB 423** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 236, AN ACT relating to vehicle emission testing programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-710 is amended to read as follows:

As used in KRS 224.20-710 to 224.20-765, unless the context clearly indicates otherwise:

- (1) "Compliance certificate" means an official emission inspection certificate issued by the cabinet or a county, air pollution control district, contractor, or fleet operator authorized by the cabinet, indicating that a vehicle has been tested in accordance with KRS 224.20-710 to 224.20-765 and complies with all applicable emission standards;
- (2) "Independent contractor" means any person, business firm, partnership, or corporation with whom the cabinet or a fiscal court may negotiate an agreement providing for construction, equipment, maintenance, personnel, management, and operation of an official emission inspection station;
- (3) "Control system" means equipment designed for installation or installed on a motor vehicle for the purpose of reducing the air contaminants emitted from the vehicle or a system or engine adjustment or modification which causes a reduction of air contaminants emitted from the vehicle;
- (4) "Exemption certificate" means an official exemption certificate issued by the cabinet or a county, contractor, or fleet operator authorized by the cabinet, indicating that a vehicle is exempt from certain requirements of KRS 224.20-710 to 224.20-765;
- (5) "Inspection station" means an official vehicle emission inspection facility whether placed in a permanent structure or in a mobile unit for conveyance among various locations within this Commonwealth, to conduct emission inspections of vehicles required to be inspected pursuant to KRS 224.20-710 to 224.20-765;
- (6) "Vehicle" means any automobile or truck registered in this Commonwealth having a combined manufacturer's weight of vehicle and maximum load to be carried of up to eighteen thousand (18,000) pounds, which is equivalent to eight thousand one hundred eighty-two (8,182) kilograms, or less and used upon the public highways of the Commonwealth for the purpose of transporting persons or property. The term "vehicle" shall not include a motorcycle as defined in KRS 189.285(6); and
- (7) "Vehicle emission control program" means a program developed by the cabinet pursuant to KRS 224.20-710 to 224.20-765 which provides for the control of vehicle emissions of any air contaminant.

Section 2. KRS 224.20-755 is amended to read as follows:

- (1) A county fiscal court may apply to the cabinet for authority to operate a vehicle emission control program. The cabinet may delegate authority when it has found that the applicant:
 - (a) Has obtained approved machinery, tools, and equipment approved by the cabinet and adequate to conduct the required emission inspections;
 - (b) Has provided for a sufficient number of facilities to ensure minimum waiting time for vehicles to be inspected;
 - (c) Employs properly trained personnel with whom to perform the necessary inspections;
 - (d) Has adopted minimum emission standards for vehicles at least as stringent as those adopted by the cabinet; and
 - (e) Agrees to provide information prescribed by the cabinet concerning the implementation, administration, and operation of the vehicle emission control program.
- (2) **Any county that has received authority to operate a vehicle emission control program shall be prohibited from inspecting motorcycles as defined in KRS 189.285(6). The provisions of this subsection shall supersede any existing local ordinance involving the inspection of motorcycles under a vehicle emission control program administered by a county. All counties, cities, special districts, and other units of local government shall be prohibited from enacting an ordinance contrary to the provisions of this subsection.**
- (3) Any county which has received authority to operate a vehicle emission control program may charge an inspection fee. There shall be established an emission inspection account in the county. Unless an independent contractor is authorized pursuant to KRS 224.20-740 to collect inspection fees, the county clerk shall collect the fee at the time of registration renewal in the manner provided for cabinet programs. The inspection fees collected by the county clerk shall be immediately transferred to the county emission inspection account, except for a sum of no more than twenty-five cents (\$0.25) per vehicle which the county clerk may retain.
- ~~(4)(3)~~ A county which has received authority to operate a vehicle emission control program shall transmit to the cabinet's vehicle emission control fund two percent (2%) of the funds received from inspection fees or from the independent contractor authorized pursuant to KRS 224.20-740.
- ~~(5)(4)~~ The county may use the county's emission inspection fund to acquire any special equipment, tools, employees, material, or facilities needed to adequately administer, investigate, or enforce the provisions of KRS 224.20-710 to 224.20-765.
- ~~(6)(5)~~ The county may enter into a contract with the cabinet and receive state funds charged to the cabinet's vehicle emission control fund to start a vehicle emission control program.
- ~~(7)(6)~~ A county applying for delegation pursuant to this section may enter into a contract with one (1) or more independent contractors subject to the provisions of KRS 224.20-740 to provide for construction, equipment, establishment, maintenance and operation of inspection stations for the purpose of obtaining delegation pursuant to KRS 224.20-710 to 224.20-765.
- ~~(8)(7)~~ If the cabinet determines, after a hearing with notice, that a delegated vehicle emission control program is not being administered in accordance with KRS 224.20-710 to 224.20-765, the delegation of authority may be revoked by order of the cabinet and all unexpended money, equipment and facilities acquired by the county with funds granted by the cabinet shall be transferred to the cabinet.

Section 3. KRS 224.20-760 is amended to read as follows:

- (1) **Except as provided in subsection (2) of this section,** the provisions of KRS 224.20-710 to 224.20-765 shall not detract from the authority provided air pollution control districts in KRS Chapters 77 and 224.
- (2) **Any air pollution control district that has received authority to operate a vehicle emission control program shall be prohibited from inspecting motorcycles as defined in KRS 189.285(6). The provisions of this subsection shall supersede any existing local ordinance involving the inspection of motorcycles under a vehicle emission control program administered by an air pollution control district. All counties, cities, special districts, and other units of local government, including an air pollution control district, shall be prohibited from enacting an ordinance contrary to the provisions of this subsection.**
- (3) The authority in KRS 224.20-720 is provided to air pollution control districts provided:
 - (a) The air pollution control district may function and exercise its powers pursuant to resolution or ordinance as provided in **this section and** KRS Chapter 77; and
 - (b) The air pollution control district has been granted concurrent jurisdiction by the cabinet pursuant to KRS 224.20-130.
- ~~(4)(3)~~ Actions taken by an air pollution control district for violations of KRS 224.20-710 to 224.20-765 shall be enforced in accordance with the provisions of KRS 224.20-130(5).

Section 4. All counties and air pollution control districts that have authority to operate a vehicle emission control program under the provisions of KRS 224.20-710 to 224.20-765 shall be prohibited from inspecting motorcycles as defined in KRS 189.285(6) upon the effective date of this Act. Any county, city, special district, or other unit of local government, including an air pollution control district, that currently has an ordinance requiring the inspection of motorcycles under a locally

administered vehicle emission control program, shall repeal the ordinance within thirty (30) days of the effective date of this Act. Any local government that fails to repeal an ordinance requiring the inspection of motorcycles in violation of this section, shall have the local government's authority to administer a vehicle emission control program immediately suspended until the offending ordinance is repealed.

HB 301, AN ACT relating to fire chiefs and assistant chiefs in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.500 is amended to read as follows:

- (1) The chief of the fire department in cities of the second class or urban-county governments, or an officer acting under his authority, shall be present at all fires and investigate their cause. He may examine witnesses, compel the production of testimony, administer oaths, make arrests, and enter any building for the purpose of examination that, in his opinion, is in danger from fires. He shall report his proceedings to the city legislative body when required.
- (2) The chief shall direct and control the operations of the members of the fire department in the discharge of their duties. He shall have access to and use of all cisterns, fireplugs, the waters of the waterworks, and the cisterns of private persons, for the purpose of extinguishing fires. He shall have the right to examine all cisterns, and all plugs and pipes of the waterworks, to see that they are in condition for use in case of fire. He shall have control of all buildings, hose, engines, and other equipment provided for the fire department. He shall perform such other duties as the legislative body shall, by ordinance, prescribe.
- (3) The fire department of each ~~second class~~ city of the second class or urban-county government shall be divided into three (3) platoons. Each platoon, excluding the chief and the assistant chief in fire departments in cities of the second class, shall be on duty for twenty-four (24) consecutive hours, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of dire emergency. The chief of the fire department shall arrange the schedule of working hours to comply with the provisions of this section. The pay, rank, or benefits of the members and officers of the fire department shall not be reduced as a result of this subsection.
- (4) In each city of the second class or urban-county government, all employees of the fire department shall be given not less than two (2) weeks leave of absence annually, with full pay.

HB 302, AN ACT relating to city civil service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.330 is amended to read as follows:

- (1) The civil service commission shall examine all applicants as to their physical and mental qualification for the particular classification wherein they seek employment. To be eligible for examination a person must not be less than eighteen (18) nor have passed his or her forty-sixth birthday, a law-abiding citizen of sobriety and integrity, and must be able to read and write and understand the English language; provided, however, that any present employee who is over forty-five (45) years of age and who is otherwise qualified shall be eligible to take any promotional examinations.
- (2) Except for those members whose qualifications are determined under KRS 95.440, no person shall be appointed to a position under civil service until that person is a resident of the Commonwealth of Kentucky ~~county in which the city is located~~.

The Committee Amendment No. 1 to **HB 302** is as follows:

On page 1, line 13, add the following new language:

"(3) Any city legislative body that operates under this chapter may by ordinance require persons appointed to civil service positions to be a resident of the county in which the city is located."

HB 328, AN ACT relating to deputy sheriff merit boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 70.260 TO 70.273 IS CREATED TO READ AS FOLLOWS:

- (1) In any county containing a city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.

- (2) In any county containing a city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

HB 331, AN ACT relating to the repeal of the auction of confiscated firearms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

16.220 Public auction of confiscated firearms -- Disposition of proceeds.

45A.047 Disposition of firearms or ammunition owned by state agency -- Disposition of proceeds upon sale.

65.041 Disposition of firearms or ammunition owned by unit of local government -- Disposition of proceeds upon sale.

Section 2. KRS 16.210 is amended to read as follows:

- (1) Property taken by the Kentucky State Police shall be placed with the property officer of the post to which the officer is assigned.
- (2) Property which is forfeited may be disposed of as provided by KRS 500.090; however, the proceeds of any sale shall go to the state ~~or be distributed as otherwise provided by law~~.
- (3) All other property may be disposed of as provided in KRS 67.592 and 67.594 except that all proceeds from any sale shall go to the state.

Section 3. KRS 95.435 is amended to read as follows:

- (1) The police department in cities of the second class, and urban-county government shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.
- (2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.
- (3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained in the court but shall be returned to the police department.
- (4) All property ~~except firearms~~ that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose after having been advertised pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government. ~~[Firearms shall be disposed of as provided by KRS 500.090.]~~

Section 4. KRS 237.090 is amended to read as follows:

Any firearm or ammunition forfeited pursuant to KRS 237.060 to 237.090 shall, upon order of a court of competent jurisdiction, be destroyed, sold, ~~disposed of~~ or retained as provided in KRS 500.090.

Section 5. KRS 500.090 is amended to read as follows:

- (1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.
 - (a) Property ~~other than firearms~~ which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.
 - (b) Property ~~other than firearms~~ which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:
 1. The state, if the property was seized by an agency of the state or peace officer thereof;
 2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
 3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the

Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;

4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

~~(c) Subject to the duty to return confiscated firearms to innocent owners pursuant to this section, all firearms confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms coming into the custody of a state or local law enforcement agency and not retained for official use shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearms sold. Prior to the sale of any firearm, the law enforcement agency shall make a bona fide attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms shall not apply to firearms auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms of the type auctioned.~~

~~(d) Proceeds from firearms sales shall be utilized by the law enforcement agency for the purchase of body armor meeting National Institute of Justice Standards for sworn officers of the law enforcement agency or for the purchase of firearms, ammunition, or range facilities, or a combination thereof, by the law enforcement agency. This subsection shall not apply to the Department of Fish and Wildlife.~~

~~(e) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.~~

~~(d)(f) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.~~

- (2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.
- (3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.
- (4) The trial court shall remit the forfeiture of property when the lawful claimant:
 - (a) Asserts his claim before disposition of the property pursuant to this section;
 - (b) Establishes his legal interest in the property; and
 - (c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.
- (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
- (6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.
- (7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or

claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

HB 335, AN ACT relating to city civil service positions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.300 is amended to read as follows:

- (1) In KRS 90.310 to 90.410, unless the context requires otherwise:
 - (a) "Administrative or directorial position" means the head of a department of municipal government.
 - (b) "Appointing authority" means the officer, commission, board or body having the power of appointment or removal in any office, department, commission, board or institution.
 - (c) "Civil service" means the offices and positions of trust or employment in the service of the city not specifically excluded by KRS 90.310 to 90.410 or by ordinance of the city as provided in KRS 90.310.
 - (d) "Commission" means the board of civil service commissioners as established under KRS 90.310.
 - (e) "Dismissal" means the discharge of an employee.
 - (f) "Employee" means any person employed in the conduct of municipal affairs, but the term shall not include the mayor or city manager, an administrative or directorial position established for cities of the second or third class, except that the legislative body, no later than December 31, 1982, may elect by ordinance to designate persons in administrative or directorial positions as employees, however, any person employed in an administrative or directorial position on July 15, 1982, shall continue to be covered by the provisions of KRS 90.310 to 90.410 for ~~the[such]~~ time as he is employed in ~~a[such]~~ position notwithstanding the removal of the position from the definition of "employee" and in cities of the second class it shall not include the offices of the board of health, members of the planning and zoning commission, the board of trustees of the public library, members of the housing authority, municipal hospital commission or the trustees, members or corresponding officers of similar boards or commissions of cities of the second class, persons employed on temporary and special projects or to persons whose regular employments with the city are seasonal and are less than nine (9) months in any one (1) year, persons in a class of employees designated by ordinance to be non-civil service positions, and the city clerk or city assessor of a city of the second class operating under the commission form of government.
 - (g) "Pension fund" means the moneys derived from the employees and the levy of a special tax, either or both, or any other sum derived from any other source, to be used for the retirement of employees after the prescribed years of service and for the benefit of disabled employees, and surviving spouses and dependent children in the case of death of an employee within the scope of his employment according to the terms of KRS 90.310 to 90.410 and the ordinance of the city.
- (2) The provisions of KRS 90.310 to 90.410 are independent of and do not affect the laws governing the police and fire departments, nor their pension funds, in cities of the second and third classes.

Section 2. KRS 90.310 is amended to read as follows:

- (1) Any city of the second or third class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission which shall hold examinations as to the qualifications of applicants for municipal employment within the several departments of the city that are designated by ordinance. ~~[In cities of the second class in which a civil service ordinance was adopted before June 19, 1946, the city shall, by ordinance, create civil service classifications for all employees consistent with the actual work to be performed by such employees;] In all ~~other~~ cities of the second class, and in cities of the third class, the city may, by ordinance, classify employees and designate the class of employees it desires to include.~~
- (2) The mayor, subject to the approval of the city legislative body, shall appoint at least three (3) but no more than five (5) persons who shall constitute the civil service commission of that city. Each appointee shall be at least thirty (30) years of age and not related by either blood or marriage to the mayor or any member of the city legislative body. The appointees shall originally be appointed one (1) for a term of three (3) years, one (1) for a term of two (2) years and all remaining appointments shall be for a term of one (1) year, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, if the mayor elects to appoint only three (3) commissioners, not more than two (2) commissioners shall be adherents of the same political party. If the mayor elects to appoint more than three (3) commissioners not more than three (3) commissioners shall be adherents

of the same political party. The appointee originally appointed for the term of three (3) years shall be secretary of the commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the commission may be fixed by the city legislative body.

- (3) If the appointing authority of any city fails to appoint a civil service commission within thirty (30) days after he has the power to so appoint or after a vacancy exists, the mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.
- (4) The civil service commission shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the ordinances of the city, for examinations and registrations therefor.

HB 423, AN ACT relating to the structure and function of cities upon reclassification to the second class and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

- (1) Any city reclassified as a city of the second class after the effective date of this Act shall be exempt from the provisions of KRS 90.300 to 90.400, KRS 95.430 to 95.500, and KRS 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities of the second class.
- (2) In lieu of the requirements of these statutes, any city reclassified as a city of the second class shall ensure that police and fire protection services are provided for the citizens of the city in the same manner and at least at the same level of service as was being provided prior to the reclassification.
- (3) Nothing in this section shall prevent a city from restructuring or creating a new civil service system, police department, or fire department after a reclassification to a city of the second class. Any city that restructures or creates a new civil service system, police department, or fire department may adopt any of the provisions of KRS 90.300 to 90.400, KRS 95.430 to 95.500, and KRS 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities of the second class.
- (4) If fire protection service is being provided by a fire protection district in any city that is reclassified as a city of the second class, the reclassification shall in no way affect the operations of the fire protection district and the services it provides. If at any time after a city is reclassified as a city of the second class, the fire protection district ceases to exist or fails to adequately provide for the fire protection needs of the city, the city shall have the right to create its own fire department or secure some other means for the provision of adequate fire protection services.

The Committee on Banking and Insurance reported **HB 50**, with Committee Substitute attached thereto, **HB 73**, with Committee Substitute attached thereto, **HB 300**, with Committee Substitute attached thereto, and **HB 377**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 50, AN ACT relating to commercial insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-051 is amended to read as follows:

- (1) In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for commercial risks as designated by the commissioner, except as provided in subsection (9) of this section, and for all personal risks. The rates and supplementary rate information shall be filed not later than fifteen (15) days after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. An order shall expire no later than one (1) year after it is issued.
- (2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.
- (3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to KRS 304.13-041 shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.
- (4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Manuals, rules, and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.
- (5) (a) No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes to use pursuant to

subsection (1) or (4) of this section if the rates, manuals, or underwriting rules will result in an increase or decrease of more than twenty-five percent (25%) from the insurer's then existing rates for any classification of risks in any of its rating territories within a twelve (12) month period of time.

- (b) Any insurer which proposes to change its then existing rates, manuals, or underwriting rules so as to effectively increase or decrease the rates of any classification of risks within any rating territory more than twenty-five percent (25%) within a twelve (12) month period shall file all the rates and supplemental rating information which shall not become effective until approved by the commissioner.
- (6) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.
- (7) The commissioner shall review filings made in accordance with subsections (2), (5)(b), and (6) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before the filing becomes effective to determine whether the filing meets the requirements of this subtitle. In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of the hearing. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes the filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.
- (8) At any hearing concerning an increase in worker's compensation rates conducted pursuant to subsection (7), the commissioner may approve a rate other than one that has been proposed by the filer if it is justified by the evidence presented at the hearing.
- (9) (a) For purposes of this subsection, "exempt commercial policyholder" means an insured that employs the services of an insurance agent or broker, procures commercial insurance with the services of a consultant licensed in Kentucky or a risk manager, and certifies that it meets any three (3) of the following criteria:
 - 1. Possesses a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued;
 - 2. Generated net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year;
 - 3. Employs more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued;
 - 4. Paid annual aggregate insurance premiums of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year;
 - 5. Is a not-for-profit organization or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year;
 - 6. Is a city, county, or urban-county with a population of at least fifty thousand (50,000) persons.
- (b) As used in this subsection, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager may be:
 - 1. A full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or
 - 2. A person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.
- (c) The requirements of this section shall not apply to a policy of insurance sold to an exempt commercial policyholder.
- (d) Policies issued to an exempt commercial policyholder shall contain a disclaimer in language similar to the following: "The rate provided for in this policy is exempt from the filing and approval requirements of this section."
- (e) This subsection shall not apply to policies governed by KRS Chapter 342.

Section 2. KRS 304.14-120 is amended to read as follows:

- (1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This

provision shall not apply to any rates filed under Subtitle 17A of this chapter, surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

- (2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.
- (3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.
- (4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.
- (5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.
- (6)
 - (a) The requirements of this section shall not apply to a policy of insurance sold to an exempt commercial policyholder as defined in subsection (9) of Section 1 of this Act. The form of any policy sold to an exempt commercial policyholder shall be kept available by the insurer for inspection by the commissioner, upon request.
 - (b) Policies issued to an exempt commercial policyholder shall contain a disclaimer in language similar to the following: "This policy is exempt from the filing and approval requirements of this section."
 - (c) This subsection shall not apply to policies governed by KRS Chapter 342.

The Committee Substitute to **HB 50** is as follows:

HB 50, AN ACT relating to commercial insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.11-020 is amended to read as follows:

- (1) Other than KRS 304.11-050, the provisions of KRS 304.11-020 to 304.11-050, shall not apply to any insurance company or underwriter issuing contracts of insurance to industrial insureds, government entity insureds, and exempt commercial policyholders, nor to any contract of insurance issued to any one (1) or more industrial insureds.
- (2) For the purpose of this section:
 - (a) An "industrial insured" is:
 1. ~~[(a)]~~ An insured who procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant; and
 2. ~~[(b)]~~ An insured whose aggregate annual premiums for insurance on all risks total at least \$25,000; and
 3. ~~[(c)]~~ An insured having at least twenty-five (25) full-time employees; and
 4. All entities that have qualified as industrial insureds as of July 1, 1999.
 - (b) A "government entity insured" is an insured:
 1. That is a government entity, municipal corporation, or public agency located in a city or county having a

- population of less than fifty thousand (50,000); and
2. That procures the insurance of any risk or risks, other than life and annuity contracts, by use of the services of a full-time employee acting as an insurance manager or buyer, or by the use of the services of a regularly and continuously retained qualified insurance consultant; and
 3. Whose aggregate annual premiums for insurance on all risks total at least one hundred thousand dollars (\$100,000), exclusive of life, health, medical, or annuity premiums; and
 4. That has at least fifty (50) full-time employees; and
 5. That satisfies the criteria the commissioner promulgates by administrative regulation.
- (c) 1. An "exempt commercial policyholder" means an insured that employs the services of an insurance agent or broker, procures commercial insurance with the services of a full-time risk manager, or a licensed insurance consultant, pursuant to Subtitle 9 of this chapter and:
- a. Is a city, county, or urban-county with a population of at least fifty thousand (50,000) persons, or the Commonwealth, or a not-for-profit organization or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year; or
 - b. Certifies that it meets all four (4) of the following criteria:
 - i. Possesses a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued;
 - ii. Generated net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year;
 - iii. Employs more than one hundred (100) employees per individual company or two hundred (200) employees per holding company aggregate at the time the policy of insurance is issued; and
 - iv. Paid annual aggregate insurance premiums of more than five hundred thousand dollars (\$500,000) in the preceding fiscal year.
 2. As used in this subsection, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager shall be:
 - a. A full-time employee of an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder; or
 - b. A person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.
- (d) The requirements of this section shall not apply to a policy of insurance sold to an exempt commercial policyholder.
- (e) Policies issued to an exempt commercial policyholder shall contain a disclaimer in language similar to the following: "The rate provided for in this policy is exempt from the filing and approval requirements of this section."
- (f) The exemption of commercial policyholders under this section shall not apply to Subtitle 39 of this chapter, KRS Chapter 342, sections in Subtitle 13 of this chapter that pertain to workers' compensation insurance, and KRS 304.12-230.
- (3) Policies issued to industrial insureds, government entity insureds, and exempt commercial policyholders are exempt from the rate and policy form requirements of this chapter.
- (4) All industrial insureds, government entity insureds, and exempt commercial policyholders shall reapply to the commissioner for their respective insured status every three (3) years, on a form the commissioner shall promulgate by administrative regulation.
- (5)(2) KRS 304.11-020 to 304.11-050, inclusive, shall not apply to any life insurance company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual by issuing insurance and annuity contracts directly from the home office of the company and without agents or representatives in this state only to or for the benefit of such institutions and to individuals engaged in the services of such institutions, nor to any policy or contract which it issues; but this exemption shall be conditioned upon any such company complying with the following requirements:
- (a) Payment of an annual registration fee;
 - (b) Filing a copy of any policy or contract issued to Kentucky residents with the commissioner;
 - (c) Filing a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other

financial material as may be requested, with the commissioner; and

- (d) Providing, in such form as may be acceptable for the appointment of the Secretary of State as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Kentucky citizen and process so served against such company shall have the same force and validity as if served upon the company.

Section 2. KRS 304.11-050 is amended to read as follows:

- (1) Effective with all premiums collected during the calendar year 1968, except premiums on lawfully procured surplus lines insurance, every unauthorized insurer shall pay to the secretary of revenue before March 1, next succeeding the calendar year in which the insurance was so effectuated, continued, or renewed, a premium tax of two percent (2%) of gross premiums charged for such insurance on subjects resident, located, or to be performed in this state. The insurance whether procured through negotiation or an application, in whole or in part occurring or made within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured or continued in this state. The term "premium" includes all premiums, membership fees, assessments, dues, and any other consideration for insurance. If the tax prescribed by this section is not paid within the time stated, the tax shall be increased by a penalty of twenty-five percent (25%) and by the amount of an additional penalty computed at the rate of one percent (1%) per month or any part thereof from the date the payment was due to the date paid.
- (2) If the policy covers risks or exposures only partly in the state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in the state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except those premiums as are properly allocated or apportioned and reported as taxable premiums to any other state or states.
- (3) Proration of premium taxes due from those insureds specified in Section 1 of this Act ~~(an industrial insured)~~ under a contract procured from an unauthorized insurer having property in states other than Kentucky, shall be determined by administrative regulations promulgated by the secretary of revenue using the following criteria where applicable:
 - (a) Percentage of physical assets in Kentucky;
 - (b) Percentage of employee payroll in Kentucky;
 - (c) Percentage of sales in Kentucky; and
 - (d) Percentage of taxable income reportable in Kentucky.
- (4) The secretary of revenue, or the Attorney General upon request of the secretary of revenue, shall proceed in the courts of this state or any other state or in any federal court or agency to recover tax not paid within the time prescribed in this section.

Section 3. KRS 304.3-230 is amended to read as follows:

- (1) Upon issuance of a certificate of authority to do business in this state, the following shall be deemed to have appointed the Secretary of State as their attorney to receive service of lawful process issued against them in this state:
 - (a) Foreign or alien insurers;
 - (b) Domestic reciprocal insurers;
 - (c) Domestic Lloyd's insurers;
 - (d) Qualified self-insurers.
- (2) Such appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the insurer, or liabilities or duties arising therefrom.
- (3) Service of lawful process against unauthorized insurers, except in contracts issued by insurers or underwriters to those insureds specified ~~(industrial insureds as defined)~~ in KRS 304.11-020, shall be made upon the Secretary of State, as provided in KRS 304.11-040.
- (4) Service of lawful process against authorized domestic insurers shall be had pursuant to KRS 271B.5-040.
- (5) If the Secretary of State is by law the lawful attorney for service of process, the clerk of the court in which action is brought shall issue a summons against the defendant named in the complaint and shall serve by certified mail, return receipt requested, two (2) true copies of the summons with two (2) attested copies of plaintiff's complaint to the Secretary of State. The Secretary of State shall immediately mail a copy of the summons and complaint to the defendant; if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer to the last known principal place of business. The letter shall be posted by prepaid certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in

the Kentucky Rules of Civil Procedure.

- (6) The Secretary of State shall keep a record of the date and hour of receipt of such lawful process, as well as the date it is forwarded to the defendant.
- (7) For the purpose of this section, "lawful process" shall include only the summons which initiates and commences a cause of action, and such other initial notices, rules, or orders which would be required by the Kentucky Rules of Civil Procedure to be by personal service.
- (8) The sheriff serving the summons upon the Secretary of State shall pay to him at the time of service a fee in the amount set forth in KRS 454.210, which shall be taxed as costs in the action.

HB 73, AN ACT related to deferred deposit transactions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 368.010 is amended to read as follows:

As used in KRS 368.010 to 368.120 and KRS 368.990, unless the context requires otherwise:

- (1) "Check" means any check, draft, money order, personal money order, travelers' check, or other demand instrument for the transmission or payment of money.
- (2) **"Check cashing" means to cash third-party checks such as payroll and government benefit checks, or other demand instruments.**
- (3) "Commissioner" means the commissioner of the Department of Financial Institutions, or his duly designated representative.
- ~~(4)(3)~~ "Consideration" includes any premium charged for the sale of goods or services in excess of the cash price of the goods or services.
- ~~(5)(4)~~ "Deferred deposit transaction" means, for consideration, accepting a **postdated** check and holding the **postdated** check for a period of time prior to deposit or presentment in accordance to an agreement with or any representation made to the maker of the **postdated** check, whether express or implied.
- ~~(6)(5)~~ "Deferred deposit service business" means a person who engages in deferred deposit transactions.
- ~~(7)(6)~~ "Department" means the Department of Financial Institutions.
- ~~(8)(7)~~ "Licensee" means a person duly licensed by the commissioner under KRS 368.010 to 368.120.
- ~~(9)(8)~~ "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity, but shall not include the United States government or the government of this Commonwealth.
- (10) **"Postdated check" means any check that is dated ahead and bears a date that has not yet arrived. A postdated check shall not be considered a demand instrument.**

Section 2. KRS 368.020 is amended to read as follows:

- (1) Except as provided in KRS 368.030, no person shall engage in the business of cashing checks or accepting deferred deposit transactions for a fee or other consideration without having first obtained a license. A separate license shall be required for each location from which the business of cashing checks or accepting deferred deposit transactions is conducted. Any person engaged in that business on the effective date of this section may continue to engage in the business without a license until the commissioner shall have acted upon his application for a license if the application is filed within sixty (60) days after April 14, 1998.
- (2) **Applicants seeking to engage in the business of check cashing shall have a separate license than applicants seeking to engage in the deferred deposit service business.**
- (3) **Applicants seeking to engage in the deferred deposit service business shall have a separate license than applicants seeking to engage in the business of check cashing.**

Section 3. KRS 368.090 is amended to read as follows:

- (1) The department ~~shall~~**may** adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of KRS 368.010 to 368.120.
- (2) To assure compliance with the provisions of KRS 368.010 to 368.120, the department ~~shall~~**may** examine the business, books, and records of ~~every~~**any** licensee **annually**, and each licensee shall pay an examination fee sufficient to cover the cost of the examination based upon fair compensation for time and actual expense as established by administrative regulations of the department.

Section 4. KRS 368.100 is amended to read as follows:

- (1) Each licensee shall keep and use in its business any books, accounts, and records the department may require to carry into effect the provisions of KRS 368.010 to 368.120 and the administrative regulations issued under those sections. Every licensee shall preserve the books, accounts, and records for at least two (2) years.

- (2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing the check, and the fee shall be deemed a service fee and not interest.
- (3) A deferred deposit service business licensee shall be subject to KRS Chapter 360, and consideration received for cashing a postdated check shall be interest~~not charge a service fee in excess of fifteen dollars (\$15) per one hundred dollars (\$100) on the face amount of the deferred deposit check. A licensee shall prorate any fee, based upon the maximum fee of fifteen dollars (\$15). This service fee shall be for a period of fourteen (14) days.~~
- (4)~~(3)~~ Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.
- (5)~~(4)~~ No licensee shall cash a check or a postdated check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, postdated check, draft, or money order on behalf of the payee.
- (6)~~(5)~~ No licensee shall indicate through advertising, signs, billhead, or otherwise that checks or postdated checks may be cashed without identification of the bearer of the postdated check or check; and any person seeking to cash a postdated check or a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check or a postdated check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.
- (7)~~(6)~~ Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the department and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.
- (8)~~(7)~~ No licensee shall alter or delete the date on any check or postdated check accepted by the licensee.
- (9)~~(8)~~ No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.
- (10)~~(9)~~ No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.
- (11)~~(10)~~ A deferred deposit service business licensee shall not have more than one deferred deposit transaction from any one (1) customer at any one time, with a face value greater than five hundred dollars (\$500).
- (12)~~(11)~~ Each deferred deposit service business licensee shall inquire of any person seeking to present a deferred deposit transaction, whether the person has any outstanding deferred deposit transactions from any deferred deposit service business licensees. If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any deferred deposit service business licensee and that the face value of the outstanding deferred deposit transaction issued by the customer does not equal or exceed five hundred dollars (\$500), a deferred deposit service business licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, does not exceed five hundred dollars (\$500). If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to any deferred deposit service business licensee or if the face value of the deferred deposit transaction issued by the customer equals or exceeds five hundred dollars (\$500), a deferred deposit service business licensee shall not accept another deferred deposit transaction from that customer until the customer represents to the deferred deposit service business licensee in writing that the customer qualifies to issue a new deferred deposit transaction under the requirements set forth in this section.
- (13)~~(12)~~ A deferred deposit service business licensee shall not use any device or agreement, including agreements with affiliated deferred deposit service business licensees, with the intent to obtain greater charges than are authorized in this section.
- (14)~~(13)~~ No deferred deposit service business licensee shall agree to hold a deferred deposit transaction for more than sixty (60) days.
- (15)~~(14)~~ Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the deferred deposit service business licensee or an authorized agent of the deferred deposit service business licensee, and made available to the department upon request. The customer shall receive a copy of this agreement.
- (16)~~(15)~~ A deferred deposit service business licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction for a customer.
- (17)~~(16)~~ No individual who enters into a deferred deposit transaction with a deferred deposit service business licensee shall be convicted under the provisions of KRS 514.040.
- (18)~~(17)~~ No deferred deposit service business licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.

- ~~(19)~~~~(18)~~ Each deferred deposit service business licensee shall conspicuously display in every deferred deposit business location a sign that gives the following notice: "No person who enters into a post-dated check or deferred deposit check transaction with this business establishment will be prosecuted or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040."

Section 5. KRS 368.102 is amended to read as follows:

- (1) Each licensee who engages in deferred deposit transactions shall give the customer the disclosures required by the Consumer Credit Protection Act (15 U.S.C. sec. 1601). Proof of this disclosure shall be made available to the department upon request.
- (2) Each check cashing licensee shall conspicuously display a schedule of all fees, and charges for all services provided by the licensee that are authorized by KRS 368.010 to 368.120. Each deferred deposit service business shall conspicuously display interest rates for all services provided by the licensee that are authorized by KRS 368.010 to 368.120. The notice shall be posted at the office and every branch office of the licensee.
- (3) A licensee may charge, collect, and receive check collection charges made by a financial institution for each check returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the customer are set forth in the written disclosure.
- (4) Any personal check or postdated check accepted from a customer ~~shall~~~~must~~ be payable to the licensee.
- (5) Before a licensee shall present for payment or deposit a check accepted by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

The Committee Substitute to **HB 73** is as follows:

HB 73, AN ACT related to deferred deposit transactions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 368.010 is amended to read as follows:

As used in KRS 368.010 to 368.120 and KRS 368.990, unless the context requires otherwise:

- (1) "Check" means any check, draft, money order, personal money order, travelers' check, or other demand instrument for the transmission or payment of money.
- (2) "Check cashing" means to cash third-party checks such as payroll and government benefit checks, or other demand instruments.
- (3) "Commissioner" means the commissioner of the Department of Financial Institutions, or his duly designated representative.
- ~~(4)~~~~(3)~~ "Consideration" includes any premium charged for the sale of goods or services in excess of the cash price of the goods or services.
- ~~(5)~~~~(4)~~ "Deferred deposit transaction" means, for consideration, accepting a postdated check and holding the postdated check for a period of time prior to deposit or presentment in accordance to an agreement with or any representation made to the maker of the postdated check, whether express or implied.
- ~~(6)~~~~(5)~~ "Deferred deposit service business" means a person who engages in deferred deposit transactions.
- ~~(7)~~~~(6)~~ "Department" means the Department of Financial Institutions.
- ~~(8)~~~~(7)~~ "Licensee" means a person duly licensed by the commissioner under KRS 368.010 to 368.120.
- ~~(9)~~~~(8)~~ "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity, but shall not include the United States government or the government of this Commonwealth.
- (10) "Postdated check" means any check that is dated ahead and bears a date that has not yet arrived. A postdated check shall not be considered a demand instrument.

Section 2. KRS 368.020 is amended to read as follows:

- (1) Except as provided in KRS 368.030, no person shall engage in the business of cashing checks or accepting deferred deposit transactions for a fee or other consideration without having first obtained a license. A separate license shall be required for each location from which the business of cashing checks or accepting deferred deposit transactions is conducted. Any person engaged in that business on the effective date of this section may continue to engage in the business without a license until the commissioner shall have acted upon his application for a license if the application is filed within sixty (60) days after April 14, 1998.
- (2) Applicants seeking to engage in the business of check cashing shall have a separate license than applicants seeking to engage in the deferred deposit service business.
- (3) Applicants seeking to engage in the deferred deposit service business shall have a separate license than applicants seeking to engage in the business of check cashing.

Section 3. KRS 368.090 is amended to read as follows:

- (1) The department ~~shall~~~~may~~ adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of KRS 368.010 to 368.120 as it pertains to deferred deposit service businesses only.
- (2) To assure compliance with the provisions of KRS 368.010 to 368.120, the department ~~shall~~~~may~~ examine the business, books, and records of every deferred deposit service business~~any~~ licensee annually, and each deferred deposit service business licensee shall pay an examination fee sufficient to cover the cost of the examination based upon fair compensation for time and actual expense as established by administrative regulations of the department.

Section 4. KRS 368.100 is amended to read as follows:

- (1) Each deferred deposit service business licensee shall keep and use in its business any books, accounts, and records the department may require to carry into effect the provisions of KRS 368.010 to 368.120 and the administrative regulations issued under those sections. Every deferred deposit service business licensee shall preserve the books, accounts, and records for at least two (2) years.
- (2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing the check, and the fee shall be deemed a service fee and not interest.
- (3) A deferred deposit service business licensee shall not charge a service fee in excess of fifteen dollars (\$15) per one hundred dollars (\$100) advanced to the customer~~on the face amount of the deferred deposit check~~. A licensee shall prorate any fee, based upon the maximum fee of fifteen dollars (\$15) per one hundred dollars (\$100) advanced to the customer. This service fee shall be for a period of fourteen (14) days.
- ~~(4)(3)~~ Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.
- ~~(5)(4)~~ No licensee shall cash a check or a postdated check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, postdated check, draft, or money order on behalf of the payee.
- ~~(6)(5)~~ No licensee shall indicate through advertising, signs, billhead, or otherwise that checks or postdated checks may be cashed without identification of the bearer of the postdated check or check; and any person seeking to cash a postdated check or a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check or a postdated check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.
- ~~(7)(6)~~ Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the department and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.
- ~~(8)(7)~~ No licensee shall alter or delete the date on any check or postdated check accepted by the licensee.
- ~~(9)(8)~~ No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.
- ~~(10)(9)~~ No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.
- ~~(11)(10)~~ A deferred deposit service business licensee shall not have more than one deferred deposit transaction from any one (1) customer at any one time, with a face value greater than five hundred dollars (\$500).
- ~~(12)(11)~~ Each deferred deposit service business licensee shall inquire of any person seeking to present a deferred deposit transaction, whether the person has any outstanding deferred deposit transactions from any deferred deposit service business licensees. If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any deferred deposit service business licensee and that the face value of the outstanding deferred deposit transaction issued by the customer, including all service fees, does not equal or exceed five hundred dollars (\$500), a deferred deposit service business licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, including all service fees, does not exceed five hundred dollars (\$500). If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to any deferred deposit service business licensee or if the face value of the deferred deposit transaction issued by the customer, including all service fees, equals or exceeds five hundred dollars (\$500), a deferred deposit service business licensee shall not accept another deferred deposit transaction from that customer until the customer represents to the deferred deposit service business licensee in writing that the customer qualifies to issue a new deferred deposit transaction under the requirements set forth in this section.
- ~~(13)(12)~~ A deferred deposit service business licensee shall not use any device or agreement, including agreements with affiliated deferred deposit service business licensees, with the intent to obtain greater charges than are authorized in this

section.

~~(14)~~~~(13)~~ No deferred deposit service business licensee shall agree to hold a deferred deposit transaction for more than sixty (60) days.

~~(15)~~~~(14)~~ Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the deferred deposit service business licensee or an authorized agent of the deferred deposit service business licensee, and made available to the department upon request. The customer shall receive a copy of this agreement.

~~(16)~~~~(15)~~ A deferred deposit service business licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction for a customer. Following payment, a deferred deposit service business shall not enter into a new deferred deposit transaction with a customer for at least seven (7) days.

~~(17)~~~~(16)~~ No individual who enters into a deferred deposit transaction with a deferred deposit service business licensee shall be convicted under the provisions of KRS 514.040.

~~(18)~~~~(17)~~ No deferred deposit service business licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.

~~(19)~~~~(18)~~ Each deferred deposit service business licensee shall conspicuously display in every deferred deposit business location a sign that gives the following notice: "No person who enters into a post-dated check or deferred deposit check transaction with this business establishment will be prosecuted or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040.

~~(20)~~ A deferred deposit customer shall not be charged check collection fees or cost by the deferred deposit service business licensee, check collection agency, attorney, or any other individual, in connection with a deferred deposit transaction unless so ordered by a court of competent jurisdiction, and except as set forth in KRS 368.102. A deferred deposit customer shall not be permitted to agree in advance to the payment of any of these fees or costs as a condition to a deferred deposit transaction.

~~(21)~~ No deferred deposit service licensee shall electronically debit any account of a deferred deposit customer, nor shall a deferred deposit customer be permitted to agree to any electronic debit of any account of the customer.

Section 5. KRS 368.102 is amended to read as follows:

(1) Each licensee who engages in deferred deposit transactions shall give the customer the disclosures required by the Consumer Credit Protection Act (15 U.S.C. sec. 1601). Proof of this disclosure shall be made available to the department upon request.

(2) Each check cashing licensee shall conspicuously display a schedule of all fees, and charges for all services provided by the licensee that are authorized by KRS 368.010 to 368.120. Each deferred deposit service business shall conspicuously display all fees for all services provided by the licensee that are authorized by KRS 368.010 to 368.120. The notice shall be posted at the office and every branch office of the licensee.

(3) A deferred deposit service licensee may charge, collect, and receive check collection charges ~~made by a financial institution~~ for each check returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the customer are set forth in the written disclosure as follows:

(a) A check may be presented to a financial institution not more than two (2) times;

(b) A check collection charge shall only be charged, collected and received one (1) time for each check returned;
and

(c) A check collection charge shall not exceed ten dollars (\$10).

(4) Any personal check or postdated check accepted from a customer ~~shall~~~~must~~ be payable to the licensee.

(5) Before a licensee shall present for payment or deposit a check accepted by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

HB 300, AN ACT relating to insurance fraud.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been convicted of any felony offense involving dishonesty or a breach of trust, or who has been convicted of a fraudulent insurance act under this subtitle, and who knowingly engages or participates in the business of insurance in this Commonwealth, shall be guilty of a Class D felony.

(2) Any insurer that knowingly permits the participation in the business of insurance in this Commonwealth by a person who has been convicted of any felony offense involving dishonesty or a breach of trust, or who has been convicted of a fraudulent insurance act under this subtitle, shall be guilty of a Class D felony.

(3) Any person who has been convicted of any felony offense involving dishonesty or a breach of trust, or who has been

convicted of a fraudulent insurance act under this subtitle, may engage in the business of insurance in this Commonwealth if he or she has received written consent from the commissioner, and that consent specifically refers to this subsection.

SECTION 2. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Any investigator, employee, or agent of the department who is sued for any act or omission in the line of duty under this subtitle, and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his or her actual financial loss.
- (2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission that resulted in liability was within the scope and course of the investigator's, employee's, or agent's employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.
- (3) If the investigator, employee, or agent seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.
- (4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the investigator, employee, or agent, and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.
- (5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an investigator, employee, or agent is a party, and any comment before the jury shall result in an immediate mistrial.

Section 3. KRS 304.47-010 is amended to read as follows:

As used in Subtitle 47 of this chapter, unless the context requires otherwise:

- (1) "Insurer" means any person, entity, organization, or reinsurer, including fraternal benefit societies as defined in Subtitle 29 of this chapter, nonprofit hospital, medical-surgical, dental, and health service corporation as defined in Subtitle 32 of this chapter, health maintenance organization as defined in Subtitle 38 of this chapter, prepaid dental plan organization as defined in Subtitle 43 of this chapter, or unauthorized insurer as defined in Subtitle 11 of this chapter, subject to regulation by or registration with the Department of Insurance under this chapter, and any "carrier," "self-insurer," or "insurance carrier" as defined by KRS Chapter 342.
- (2) "Insurance policy" or "policy" means any individual or group policy, including those defined by KRS Chapter 342, certificate, or contract of an insurer as defined in subsection (1) of this section including reinsurance affecting the rights of any Kentucky resident or bearing a reasonable relation to Kentucky regardless of whether delivered or issued for delivery in Kentucky.
- (3) "Insured" means any person who is a named insured or beneficiary under a policy as defined in subsection (2) of this section or a person who is not a named insured or beneficiary under a policy due to the fraudulent action of another, but who in good faith believes himself to be an insured or beneficiary.
- (4) "Law enforcement agency" means any federal, state, county, or consolidated police or law enforcement department and any prosecuting official of the federal, state, county, local, or consolidated government.
- (5) "Statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or physician record or report, X-ray, test result, or other evidence of loss, injury, or expense. A statement may be in any form, including oral, written, and electronic transmissions.
- (6) "Division" means the Division of Insurance Fraud Investigation of the Kentucky Department of Insurance, its employees, or authorized representatives.
- (7) "Criminal syndicate" means five (5) or more persons collaborating to promote or engage in any fraudulent insurance act, as set forth in KRS 304.47-020(1), on a continuing basis.

Section 4. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including, but not limited to, matters relating to workers' compensation:
 - (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Board of Claims, Special Fund, or any agent thereof, any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;

- (b) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Board of Claims, or any agent thereof, any ~~any [written or oral]~~ statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that ~~the [this]~~ statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
 - (c) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
 - (d) Knowingly and with intent to defraud or deceive, receives money for the purpose of purchasing insurance, and fails to obtain insurance [converts the money to the person's own benefit];
 - (e) Knowingly and with intent to defraud or deceive, fails to make payment or disposition of money, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 - (f) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, ~~or~~ insurance binders, or any other documents that purport to evidence insurance;
 - ~~(g) [(f)]~~ Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
 - ~~(h) [(g)]~~ Engages in unauthorized insurance, as defined in KRS 304.11-030;
 - ~~[(h)]~~ Knowingly and with intent to defraud or deceive, receives temporary total disability benefits while being employed in work as defined in KRS 342.0011;
 - (i) Knowingly and with intent to defraud or deceive, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner ~~any agent thereof,~~ any ~~any [written or oral]~~ statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
 1. The rating of an insurance policy;
 2. The financial condition of an insurer;
 3. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or
 4. A document filed with the commissioner;
 - (j) Knowingly and with intent to defraud or deceive, engages in any of the following:
 1. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or
 2. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets ~~the assets or records~~ of an insurer; or
 - (k) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) (a) Except as provided in paragraphs (b) and (c) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to three hundred dollars (\$300), and shall be punished by:
1. Imprisonment for not more than one (1) year;
 2. A fine, per occurrence, of not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph;
- (b) Except as provided in paragraph (c) of this subsection, ~~where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of three hundred dollars (\$300),~~ a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:
1. Imprisonment for not less than one (1) nor more than five (5) years;
 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (c) Any person, with the purpose to establish or maintain a criminal syndicate, or to facilitate any of its activities, as set forth in KRS 506.120(1), shall be guilty of engaging in organized crime, a Class B felony, and shall be punished by:
1. Imprisonment for not less than ten (10) years nor more than twenty (20) years;

2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
3. Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.
- (d) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a), (b), or (c) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss ***due to any actions by that person***~~[under the person's actions]~~ which resulted in the adjudication of guilt, ***and to the division for the cost of any investigation***. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (3) Any ~~person~~~~[insurer]~~ damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

Section 5. KRS 304.47-050 is amended to read as follows:

- (1) Any person, other than ***those specified in subsection (2) of this section***~~[an insurer, agent, or other person licensed under this chapter, or an employee thereof]~~, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the division~~[of Insurance Fraud Investigation]~~ a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.
- (2) The following individuals having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed shall send to the division~~[of Insurance Fraud Investigation]~~ a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or his employees or agents may require:
 - (a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;
 - (b) Any utilization review of benefits committee as defined in KRS 211.462 to 211.466;
 - (c) Any private medical review committee;
 - (d) Any insurer, agent, or other person licensed under this chapter; and
 - (e) Any employee of the persons named in paragraphs (a) to (d) of this subsection.
- (3) The division~~[of Insurance Fraud Investigation]~~ or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the division, may require further investigation. The division shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.
- (4) The Department of Workers' Claims shall provide the division access to all relevant information the commissioner may request.
- (5) The division~~[of Insurance Fraud Investigation]~~ shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the division of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.
- (6) Notwithstanding the provisions of subsections (1) to (5) of this section, ***any person having knowledge or believing that a fraudulent insurance act or any other act that may be prohibited under this subtitle is being or has been committed***~~[when an insurer or an insured knows or has reasonable grounds to believe that a person committed a fraudulent insurance act which the insurer reasonably believes not to have been reported to a law enforcement agency in this state, then, for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf or the insured]~~ may notify ***any***~~[a]~~ law enforcement agency of their knowledge or ~~[reasonable]~~ belief and provide information relevant to the ~~[fraudulent insurance]~~ act, ***as may be requested by that agency***, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including statements of any person, proofs of loss, and notice of loss. ***Reporting to any other agency does not relieve those listed in subsection (2) of this section of their mandatory duty to report to the division.***

- (7) If the information referred to in ~~subsection (6) of~~ this section is specifically requested by the division, any other~~a~~ law enforcement agency, or a prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.
- (8) In the absence of malice, fraud, or gross negligence, no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, the Department of Workers' Claims, their respective employees, or an insured shall be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection.

Section 6. KRS 304.47-060 is amended to read as follows:

- (1) In the absence of malice, fraud, or gross negligence, a person shall not be subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports or furnishing other information required by this chapter or requested by the division~~[of Insurance Fraud Investigation]~~ or its authorized representative. No civil cause of action of any nature shall arise against the person:
- (a) For any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents, or employees;
 - (b) For any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this subtitle, including those designated by KRS 304.47-080;
 - (c) For any information furnished to or received from the Department of Workers' Claims, its agents, or employees; or
 - (d) For any information furnished in reports to the commissioner or the National Association of Insurance Commissioners.
- (2) Notwithstanding any other provision of this subtitle, insurers, their employees, agents, or authorized representatives, investigating suspected fraudulent insurance acts may provide information to other insurers, their employees, agents, or authorized representatives, regarding persons who may be committing or may have committed these acts. In the absence of malice, fraud, or gross negligence, insurers, their employees, agents, or authorized representatives shall not be subject to civil liability by virtue of providing or requesting this information.
- (3) The commissioner or any employee or agent of the Department of Insurance shall not be subject to civil liability for libel, slander, or any other relevant tort. No civil cause of action shall exist against these persons by virtue of the execution of official activities or duties of the commissioner or the division or by virtue of the publication of any report or bulletin related to the official activities or duties of the commissioner.
- ~~(4)(3)~~ This subtitle shall not abrogate or modify any common law or statutory privilege or immunity enjoyed by any person.
- ~~(5)(4)~~ The papers, documents, reports, or evidence obtained by the commissioner or any person acting under the authority of the commissioner, relative to the subject of an investigation or any other matter under this subtitle, shall not be subject to public inspection for so long as the commissioner deems reasonably necessary to complete ~~an~~the investigation, to protect ~~a~~the person being investigated from unwarranted injury, or to be in the public interest. Further, the papers, documents, reports, or evidence~~[relative to the investigations]~~ shall not be subject to subpoena until opened for public inspection by the commissioner, unless the commissioner consents, or until, after notice to the commissioner and a hearing, a court of competent jurisdiction determines the commissioner would not be unnecessarily hindered by a subpoena. The commissioner or his employees or agents shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge relating to any such papers, documents, reports, or evidence, including any relating~~[pursuant]~~ to pending investigations of fraudulent insurance acts.

Section 7. KRS 304.47-070 is amended to read as follows:

All costs of administration and operation of the ~~division~~Insurance Fraud Unit shall be borne by the Department of Insurance. Any money or other property that is awarded to the ~~division~~Insurance Fraud Unit as costs of investigation or as a fine shall be credited to the Department of Insurance, and the money shall be used to help finance the ~~division~~Insurance Fraud Unit.

Section 8. KRS 304.47-080 is amended to read as follows:

- (1) Every insurer admitted to do business in the Commonwealth shall maintain effective procedures and resources to deter and investigate fraudulent insurance acts prohibited by this subtitle, including a unit ~~that will~~to investigate ~~suspected~~possible fraudulent ~~insurance acts~~claims by insureds or by persons making claims for services or repairs against policies held by insureds. For the purpose of this section, "insurer" does not include reinsurers or reinsurance as defined in KRS 304.5-130.
- (2) Insurers may maintain the unit required by subsection (1) of this section, using its employees or by contracting with others for that purpose.
- (3) Insurers shall establish the unit required by this section no later than July 15, 1995.
- (4) The unit may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense.

The Committee Substitute to **HB 300** is as follows:

HB 300, AN ACT relating to insurance fraud.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Any person who has been convicted of any felony offense involving dishonesty or a breach of trust, or who has been convicted of a fraudulent insurance act under this subtitle, and who knowingly engages or participates in the business of insurance in this Commonwealth, shall be guilty of a Class D felony.
- (2) Any insurer that knowingly permits the participation in the business of insurance in this Commonwealth by a person who has been convicted of any felony offense involving dishonesty or a breach of trust, or who has been convicted of a fraudulent insurance act under this subtitle, shall be guilty of a Class D felony.
- (3) Any person who has been convicted of any felony offense involving dishonesty or a breach of trust, or who has been convicted of a fraudulent insurance act under this subtitle, may engage in the business of insurance in this Commonwealth if he or she has received written consent from the commissioner, and that consent specifically refers to this subsection.

SECTION 2. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Any investigator, employee, or agent of the department who is sued for any act or omission in the line of duty under this subtitle, and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his or her actual financial loss.
- (2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission that resulted in liability was within the scope and course of the investigator's, employee's, or agent's employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.
- (3) If the investigator, employee, or agent seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.
- (4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the investigator, employee, or agent, and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.
- (5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an investigator, employee, or agent is a party, and any comment before the jury shall result in an immediate mistrial.

SECTION 3. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Documents, materials, or other information in the possession or control of the commissioner that is provided according to this subtitle shall be confidential by law and privileged, and shall not be subject to the Kentucky Open Records Act, KRS 61.872 to KRS 61.884. These documents, materials, or other information shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action, unless, after notice to the commissioner and a hearing, a court of competent jurisdiction determines the commissioner would not be unnecessarily hindered. However, the commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.
- (2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.
- (3) In order to assist in the performance of the commissioner's duties, the commissioner:
 - (a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsections (1) and (2) of this section, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with local, state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;
 - (b) May receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or information from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential and privileged any documents, materials, or information received with notice or the understanding that it is confidential and privileged under the laws of the jurisdiction that is the source of

the documents, materials, or information;

(c) May enter into agreements governing the sharing and use of information including the furtherance of any regulatory or legal action brought as part of the recipient's official duties.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this subtitle or as a result of sharing as authorized in subsection (3) of this section.

Section 4. KRS 304.47-010 is amended to read as follows:

As used in Subtitle 47 of this chapter, unless the context requires otherwise:

- (1) "Insurer" means any person, entity, organization, or reinsurer, including fraternal benefit societies as defined in Subtitle 29 of this chapter, nonprofit hospital, medical-surgical, dental, and health service corporation as defined in Subtitle 32 of this chapter, health maintenance organization as defined in Subtitle 38 of this chapter, prepaid dental plan organization as defined in Subtitle 43 of this chapter, or unauthorized insurer as defined in Subtitle 11 of this chapter, subject to regulation by or registration with the Department of Insurance under this chapter, and any "carrier," "self-insurer," or "insurance carrier" as defined by KRS Chapter 342.
- (2) "Insurance policy" or "policy" means any individual or group policy, including those defined by KRS Chapter 342, certificate, or contract of an insurer as defined in subsection (1) of this section including reinsurance affecting the rights of any Kentucky resident or bearing a reasonable relation to Kentucky regardless of whether delivered or issued for delivery in Kentucky.
- (3) "Insured" means any person who is a named insured or beneficiary under a policy as defined in subsection (2) of this section or a person who is not a named insured or beneficiary under a policy due to the fraudulent action of another, but who in good faith believes himself to be an insured or beneficiary.
- (4) "Law enforcement agency" means any federal, state, county, or consolidated police or law enforcement department and any prosecuting official of the federal, state, county, local, or consolidated government.
- (5) "Statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or physician record or report, X-ray, test result, or other evidence of loss, injury, or expense. A statement may be in any form, including oral, written, and electronic transmissions.
- (6) "Division" means the Division of Insurance Fraud Investigation of the Kentucky Department of Insurance, its employees, or authorized representatives.
- (7) "Criminal syndicate" means five (5) or more persons collaborating to promote or engage in any fraudulent insurance act, as set forth in KRS 304.47-020(1), on a continuing basis.

Section 5. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including, but not limited to, matters relating to workers' compensation:
 - (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Board of Claims, Special Fund, or any agent thereof, any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;
 - (b) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Board of Claims, or any agent thereof, any ~~written or oral~~ statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that ~~the~~ this statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
 - (c) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
 - (d) Knowingly and with intent to defraud or deceive, receives money for the purpose of purchasing insurance, and fails to obtain insurance ~~converts the money to the person's own benefit~~;
 - (e) Knowingly and with intent to defraud or deceive, fails to make payment or disposition of money, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 - (f) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, ~~or~~ insurance binders, or any other documents that purport to evidence insurance;
 - (g) ~~(f)~~ Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;

- ~~(h)(g)~~ Engages in unauthorized insurance, as defined in KRS 304.11-030;
- ~~(h) Knowingly and with intent to defraud or deceive, receives temporary total disability benefits while being employed in work as defined in KRS 342.0011;~~
- (i) Knowingly and with intent to defraud or deceive, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner~~[any agent thereof]~~, any~~[written or oral]~~ statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
1. The rating of an insurance policy;
 2. The financial condition of an insurer;
 3. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or
 4. A document filed with the commissioner;
- (j) Knowingly and with intent to defraud or deceive, engages in any of the following:
1. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or
 2. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets~~[the assets or records]~~ of an insurer; or
- (k) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) (a) Except as provided in paragraphs (b) and (c) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to three hundred dollars (\$300), and shall be punished by:
1. Imprisonment for not more than one (1) year;
 2. A fine, per occurrence, of not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph;
- (b) Except as provided in paragraph (c) of this subsection, where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of three hundred dollars (\$300), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:
1. Imprisonment for not less than one (1) nor more than five (5) years;
 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (c) Any person, with the purpose to establish or maintain a criminal syndicate, or to facilitate any of its activities, as set forth in KRS 506.120(1), shall be guilty of engaging in organized crime, a Class B felony, and shall be punished by:
1. Imprisonment for not less than ten (10) years nor more than twenty (20) years;
 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
 3. Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.
- (d) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a), (b), or (c) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person~~[under the person's actions]~~ which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (3) Any person~~[insurer]~~ damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

Section 6. KRS 304.47-040 is amended to read as follows:

- (1) There is created within the Department of Insurance a Division of Insurance Fraud Investigation, which shall include a Workers' Compensation Branch.
- (2)
 - (a) The commissioner shall appoint qualified persons to serve as special investigators for the Division of Insurance Fraud Investigation who shall have general police powers including the power to arrest, and they shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, and their jurisdiction shall be coextensive with the state.
 - (b) The commissioner shall appoint appropriate staff for the Workers' Compensation Branch which shall include, at a minimum, three (3) special investigators, one (1) attorney, and one (1) administrative assistant. The appointments authorized by this paragraph shall be in addition to the staff employed by the division as of December 12, 1996.
- (3) The special investigator may:
 - (a) Administer oaths and affirmations;
 - (b) Order the attendance of witnesses or proffering of information and documentation;
 - (c) Collect evidence; and
 - (d) Make arrests for criminal violations established as a result of its investigations. The general laws applicable to arrests by sheriffs of the Commonwealth shall also be applicable to special investigators, who may:
 1. Execute arrest warrants and search warrants for the criminal violations revealed as a result of their investigations;
 2. Serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations; and
 3. Arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws.
- (4) The division may implement its powers if, based upon its own inquiries or as a result of information received, it has reason to believe that a person has engaged in, is engaging in, or is about to engage in a fraudulent insurance act.
- (5) If the information the division seeks to obtain is located outside the state, the person so requested may make it available to the division or its representative to examine at the place where it is located. The division may designate representatives, including officials of the state in which the matter is located, to inspect the information on the division's behalf, and it may respond to similar requests from officials of other states.
- (6) It shall be unlawful for any person to resist an arrest authorized by this subtitle or in any manner to interfere, either by abetting or assisting this resistance or otherwise interfering, with special investigators employed by the commissioner under this subtitle in the duties imposed upon them by law, and shall be punishable as provided in KRS 520.090.
- (7) The commissioner may obtain any evidence for use in criminal investigations according to KRS 304.2-340.**

Section 7. KRS 304.47-050 is amended to read as follows:

- (1) Any person, other than ~~those specified in subsection (2) of this section~~~~(an insurer, agent, or other person licensed under this chapter, or an employee thereof)~~, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the division~~[of Insurance Fraud Investigation]~~ a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.
- (2) The following individuals having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed shall send to the division~~[of Insurance Fraud Investigation]~~ a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or his employees or agents may require:
 - (a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;
 - (b) Any utilization review of benefits committee as defined in KRS 211.462 to 211.466;
 - (c) Any private medical review committee;
 - (d) Any insurer, agent, or other person licensed under this chapter; and
 - (e) Any employee of the persons named in paragraphs (a) to (d) of this subsection.
- (3) The division~~[of Insurance Fraud Investigation]~~ or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the division, may require further investigation. The division shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.
- (4) The Department of Workers' Claims shall provide the division access to all relevant information the commissioner may request.
- (5) The division~~[of Insurance Fraud Investigation]~~ shall report any alleged violations of law which the investigations disclose

to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the division of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.

- (6) Notwithstanding the provisions of subsections (1) to (5) of this section, any person having knowledge or believing that a fraudulent insurance act or any other act that may be prohibited under this subtitle is being or has been committed, ~~[when an insurer or an insured knows or has reasonable grounds to believe that a person committed a fraudulent insurance act which the insurer reasonably believes not to have been reported to a law enforcement agency in this state, then, for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf or the insured]~~ may notify any ~~[a]~~ law enforcement agency of their knowledge or ~~[reasonable]~~ belief and provide information relevant to the ~~[fraudulent insurance]~~ act, as may be requested by that agency, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including statements of any person, proofs of loss, and notice of loss. Reporting to any other agency does not relieve those listed in subsection (2) of this section of their mandatory duty to report to the division.
- (7) If the information referred to in ~~[subsection (6) of]~~ this section is specifically requested by the division, any other ~~[a]~~ law enforcement agency, or a prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.
- (8) In the absence of malice, fraud, or gross negligence, no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, the Department of Workers' Claims, their respective employees, or an insured shall be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection.

Section 8. KRS 304.47-060 is amended to read as follows:

- (1) In the absence of malice, fraud, or gross negligence, a person shall not be subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports or furnishing other information required by this chapter or requested by the division ~~[of Insurance Fraud Investigation]~~ or its authorized representative. No civil cause of action of any nature shall arise against the person:
- (a) For any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents, or employees;
 - (b) For any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this subtitle, including those designated by KRS 304.47-080;
 - (c) For any information furnished to or received from the Department of Workers' Claims, its agents, or employees; or
 - (d) For any information furnished in reports to the commissioner or the National Association of Insurance Commissioners.
- (2) The commissioner or any employee or agent of the Department of Insurance shall not be subject to civil liability for libel, slander, or any other relevant tort. No civil cause of action shall exist against these persons by virtue of the execution of official activities or duties of the commissioner or the division or by virtue of the publication of any report or bulletin related to the official activities or duties of the commissioner.
- (3) This subtitle shall not abrogate or modify any common law or statutory privilege or immunity enjoyed by any person.
- ~~[(4) The papers, documents, reports, or evidence relative to the subject of an investigation under this subtitle, shall not be subject to public inspection for so long as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public interest. Further, the papers, documents, reports, or evidence relative to the investigations shall not be subject to subpoena until opened for public inspection by the commissioner, unless the commissioner consents, or until, after notice to the commissioner and a hearing, a court of competent jurisdiction determines the commissioner would not be unnecessarily hindered by a subpoena. The commissioner or his employees or agents shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to pending investigations of fraudulent insurance acts.]~~

Section 9. KRS 304.47-070 is amended to read as follows:

All costs of administration and operation of the division ~~[Insurance Fraud Unit]~~ shall be borne by the Department of Insurance. Any money or other property that is awarded to the division ~~[Insurance Fraud Unit]~~ as costs of investigation or as a fine shall be credited to the Department of Insurance, and the money shall be used to help finance the division ~~[Insurance Fraud Unit]~~.

Section 10. KRS 304.47-080 is amended to read as follows:

- (1) Every insurer admitted to do business in the Commonwealth shall maintain effective procedures and resources to deter and investigate fraudulent insurance acts prohibited by this subtitle, including a unit that will~~to~~ investigate suspected~~possible~~ fraudulent insurance acts~~claims by insureds or by persons making claims for services or repairs against policies held by insureds~~. For the purpose of this section, "insurer" does not include reinsurers or reinsurance as defined in KRS 304.5-130.
- (2) Insurers may maintain the unit required by subsection (1) of this section, using its employees or by contracting with others for that purpose.
- (3) Insurers shall establish the unit required by this section no later than July 15, 1995.
- (4) The unit may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense.

HB 377, AN ACT relating to branching and acquisition of banks in Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.180 is amended to read as follows:

- (1) Banks authorized under the laws of this state may, except as provided in subsections (2) or (3) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest on these items, buying and selling exchange, coin, and bullion, and lending money on personal or real security.
- (2) Any corporation presently or after July 13, 1990, engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner for permission to establish, within any state, the District of Columbia, or a territory of the United States~~county in which its principal office or an existing branch is located~~, a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is reasonable probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the bank establishing the branch. The following conditions shall apply to applications for branches:
 - (a) The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order as defined in KRS 13B.010, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for any period of time he deems to be necessary; and
 - (b) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.
- (3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank may continue to retain and operate the agency or branch bank under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.
- (4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of the banks, nor to prohibit the sale of any bank to, and the purchase by, any other bank in the same county and the operation of the bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by the operation, ~~and provided further that, at the time of the merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more~~. The bank which does not survive the merger shall surrender its charter.
- (5) Any national banking association or any state bank member of the Federal Reserve system whose principal office is located in this state may do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of these powers.
- (6) When a branch or agency bank has once been established any operation of the branch or agency bank shall not be discontinued, and the branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner the branch or agency bank proposing to discontinue operation may be required to give notice of the date when its operation will cease.

Section 2. KRS 287.172 is amended to read as follows:

- (1) A national banking association may convert into or merge with a state bank under a state charter, provided that

~~(a) — the action taken complies with federal law;~~

~~(b) — In the case of a merger, the institutions to be merged are located in the same city or county.~~

- (2) In the case of each conversion, a written plan of conversion shall be submitted, in duplicate, to the commissioner. Such plan shall be in form satisfactory to the commissioner, shall prescribe the terms and conditions of the conversion and the mode of carrying it into effect, and shall have annexed thereto and forming a part thereof the proposed articles of incorporation of the state bank which is to result from the conversion. Such articles of incorporation shall be in the form prescribed by law for the organization of state banks, with such variations, if any, as shall be satisfactory to the commissioner. With such plan of conversion there shall be submitted, in duplicate, to the commissioner a certificate of the president, secretary or cashier of the national banking association certifying that all steps have been taken which are necessary under federal law to the consummation of the conversion. The commissioner shall approve or disapprove such plan of conversion within sixty (60) days of the submission thereof to him. In considering the approval or disapproval of the conversion plan the commissioner shall take into account:

- (a) Any pending administrative or judicial action to which the bank or any officer or director of the bank is a party;
- (b) The performance of the converting national bank for the five (5) years preceding the application for conversion as compared to similarly situated state-chartered banks; and
- (c) The proposed name of the bank after conversion which shall not be the same as or deceptively similar to any existing state-chartered bank.

If the commissioner shall approve such plan, he shall file one (1) duplicate thereof, together with one (1) duplicate of such certificate submitted therewith and the original of the approval of the commissioner, in the office of the commissioner, and the other duplicate of such plan, together with a duplicate of such certificate and a duplicate of the commissioner's approval, shall be filed in the office of the clerk of the county in which the principal office of the state bank is to be located. After such filing in the office of the commission, the conversion shall become effective upon the filing and recording of the articles of incorporation as provided in KRS 287.050, unless a later date is specified in the plan, in which event the conversion shall become effective upon such later date. If the commissioner shall disapprove the conversion plan, he shall state his reasons for such disapproval in writing to which the converting national bank shall have the right of appeal as permitted by law.

- (3) In the case of each merger, a written plan of merger shall be submitted, in duplicate, to the commissioner. Such plan shall be in form satisfactory to the commissioner and shall prescribe the terms and conditions of the merger and the mode of carrying it into effect. Such plan may provide the name to be borne by the state bank, as receiving corporation, if such name is to be changed. Such plan may also name the persons who shall constitute the first board of directors of the state bank after the merger shall have been accomplished, provided that the number and qualifications of such person shall be in accordance with the provisions of KRS Chapter 287 relating to the number and qualifications of directors of a state bank; or such plan may provide for a meeting of the stockholders to elect a board of directors within sixty (60) days after such merger, and may make provision for conducting the affairs of the state bank meanwhile. With such plan of merger there shall be submitted, in duplicate, to the commissioner the following:

- (a) By the national banking association, a certificate of the president, secretary or cashier of such association certifying that all steps have been taken which are necessary under federal law to the consummation of their merger;
- (b) By the state bank, a certificate of the president, secretary or cashier certifying that such plan of merger has been approved by the board of directors of the state bank by a majority vote of all the members thereof, that such plan has been submitted to the stockholders of the state bank at a meeting thereof held; upon notice of at least fifteen (15) days, specifying the time, and place and object of such meeting and addressed to each stockholder at the address appearing upon the books of the state bank and published pursuant to KRS Chapter 424, and that such plan of merger has been approved at such meeting by the vote of the stockholders owning at least two-thirds (2/3) in amount of the stock of the state bank.

- (4) The commissioner shall approve or disapprove such plan of merger within sixty (60) days of such submission thereof to him. If the commissioner shall approve such plan, he shall file one (1) duplicate thereof, together with one (1) duplicate of each of such certificates and the original of the approval of the commissioner, in the office of the commissioner, and the other duplicate of such plan, together with a duplicate of each of such certificates and a duplicate of the commissioner's approval, shall be filed in the office of the clerk of the county in which the principal office of the state bank is to be located. Upon such filing in the office of the commissioner, the merger shall become effective, unless a later date is specified in the plan, in which event the merger shall become effective upon such later date.

- (5) At the time when such conversion or merger becomes effective:

- (a) The resulting state bank shall be considered the same business and corporate entity as the national banking association, although as to rights, powers and duties, the resulting bank is a state bank;
- (b) All of the property, rights and powers and franchises of the national banking association shall vest in the resulting state bank and the resulting state bank shall be subject to and deemed to have assumed all of the debts, liabilities,

obligations and duties of the national banking association and to have succeeded to all of its relationships, fiduciary or otherwise, as fully and to the same extent as if such property, rights, powers, franchises, debts, liabilities, obligations, duties and relationships had been originally acquired, incurred or entered into by the resulting state bank; provided, however, that the resulting state bank shall not, through such conversion or merger, acquire power to engage in any business or to exercise any right, privilege or franchise which is not conferred by the provisions of KRS Chapter 287 upon such resulting state bank;

- (c) Any reference to the national banking association in any contract, will or document, whether executed or taking effect before or after the conversion or merger, shall be considered a reference to the resulting state bank if not inconsistent with the other provisions of the contract, will or document;
- (d) A pending action or other judicial proceeding to which the national banking association is a party, shall not be deemed to have abated or to have discontinued by reason of the conversion or merger, but may be prosecuted to final judgment, order or decree in the same manner as if the conversion or merger had not been made; or the resulting state bank may be substituted as a party to such action or proceeding, and any judgment, order or decree may be rendered for or against it that might have been rendered for or against the national banking association if the conversion or merger had not occurred.

Section 3. KRS 287.900 is amended to read as follows:

- (1) For purposes of this section and KRS 287.905:

- (a) "Bank" means any institution organized under this chapter, the banking laws of another state, or the National Bank Act, as amended, to do a banking business~~. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years~~;
- (b) "Bank holding company," "company," and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended (12 U.S.C. secs. 1841 et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;
- (c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation; and
- (d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all federally-insured depository institutions to their respective supervisory authorities.

- ~~(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.~~

- ~~(3)~~ No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally-insured depository institutions in this state as reported in the most recent year-end reports made by the institutions to their respective supervisory authorities which are available at the time of the acquisition.

- ~~(3)(4)~~ The limitations set forth in this section or any other provision of this chapter or any regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

- ~~(4)(5)~~ The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

Section 4. KRS 287.915 is amended to read as follows:

- (1) Notwithstanding any other provision of KRS Chapter 287:

- (a) An individual or bank holding company that controls two (2) or more banks having their principal offices in this

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Commonwealth may, from time to time, combine any or all of the commonly controlled banks in this Commonwealth into and with any one (1) of the banks, and thereafter the surviving bank, which shall have its principal office in this Commonwealth, shall continue to operate its principal office and may operate the other authorized offices of the banks so combined as branches of the surviving bank; and

- (b) Any combination authorized by this section shall not require the approval of the commissioner of financial institutions, but on or before thirty (30) days prior to consummation of any combination, the proposed surviving bank shall notify the commissioner of the combination, and on the effective date of any such combination the charter of any combined bank organized under the laws of this Commonwealth shall be surrendered.

(2) Following any combination authorized by this section:

- (a) The surviving bank may, subject to the approval of the commissioner as provided in KRS 287.180(2), establish and operate additional branches in any county where any bank involved in the combination had established a branch or main office;
- (b) Any combined bank which is being operated as a branch of the surviving bank shall have a board of directors, a majority of which shall be residents of the combined bank's community, which shall meet not less often than quarterly to advise the branch in a nonfiduciary capacity with respect to the branch's community activities and affairs, customer relations, and local charitable activities;
- (c) The surviving bank shall maintain a record of the deposits in each of its offices resulting from such combination or thereafter established as provided in paragraph (a) of this subsection; and
- (d) With the approval of the commissioner, all of a bank's offices in a county may be transferred, by a purchase and assumption or other transaction, by the bank to a newly chartered bank having its principal office in the same county, or to an existing bank. ~~If transferred to a newly chartered bank, the years in existence of the newly chartered bank shall be deemed to be in excess of five (5) years.~~

(3) For purposes of this section:

- (a) The term "combine" or "combination" includes a merger or the acquisition of all or substantially all of the assets of a bank already controlled by an individual or bank holding company;
- (b) An individual or bank holding company "controls" a bank if that individual or company, directly or indirectly, owns, controls, or has the power to vote at least eighty percent (80%) of the issued and outstanding voting securities of the bank;
- (c) "Combined bank" means any bank participating in a combination authorized by this section other than the surviving bank;
- (d) "Surviving bank" means a bank into which a combined bank has been combined;
- (e) "Bank" includes a national bank, savings and loan association, and federal savings bank ~~but does not include a bank which has been in existence less than five (5) years~~; and
- (f) "Individual", "bank holding company" and "deposit" shall have the same meanings attributed to them in KRS 287.900(1).

Section 5. KRS 287.920 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

- (a) "Interstate merger transaction" means the merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; and
- (b) "Resulting bank" means a bank that has resulted from an interstate merger transaction under this section.

(2) A Kentucky state bank may establish, maintain, and operate one (1) or more branches in a state other than Kentucky pursuant to an interstate merger transaction in which the Kentucky state bank is the resulting bank, or if the other state permits, by acquisition of a branch or branches in the other state. Not later than the date on which the required application for the interstate merger transaction or branch acquisition is filed with the responsible federal bank supervisory agency, the applicant shall file an application on a form prescribed by the commissioner and pay the fee prescribed by KRS 287.480. The applicant shall also comply with the applicable provisions of KRS 287.180(2) and the commissioner shall base his approval or disapproval in the same manner as prescribed in KRS 287.180(2).

(3) An out-of-state state bank may establish, maintain, and operate one (1) or more branches in Kentucky pursuant to an interstate merger transaction in which the out-of-state state bank is the resulting bank. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant shall file an application on a form prescribed by the commissioner, pay the fee prescribed by KRS 287.480, and agree in writing to comply with the laws of this state applicable to its operation of branches in Kentucky. The applicant shall also comply with the applicable provisions of KRS 287.180(2) and the commissioner shall base his approval or disapproval in the same manner as prescribed in KRS 287.180(2).

- (4) ~~[The bank to be acquired in an interstate merger transaction under the provisions of subsection (3) of this section shall have been involved in operation for a period of five (5) years or more.]~~ No interstate merger transaction under subsections (2) or (3) of this section shall be approved if the transaction would result in a bank holding company having control of banks or branches in this state holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally-insured depository institutions in this state as reported in the most recent year-end reports made by the institutions to their respective supervisory authorities which are available at the time of the transaction.
- (5) An individual or bank holding company that controls two (2) or more banks may, from time to time, combine any or all of the commonly controlled banks in this Commonwealth into and with any one (1) of the banks, and thereafter the surviving bank shall continue to operate its principal office and may operate the other authorized offices of the banks so combined as branches of the surviving bank.
- (6) A branch of an out-of-state state bank may conduct any activities that are authorized under the laws of this state for state banks. Additionally, the branch of an out-of-state state bank is authorized to conduct any activities relating to the administration of trusts that are authorized under the laws of its home state, if the activities are conducted in conformity with the laws of its home state.
- (7) A branch of a Kentucky state bank located in a host state may conduct any activities that are:
- (a) Authorized under the laws of the host state for banks chartered by the host state; or
 - (b) Authorized for branches of national banks located in the host state, but whose principal location is in a state other than the host state.

Section 6. KRS 287.180 is amended to read as follows:

- (1) Banks authorized under the laws of this state may, except as provided in subsections (2) or (3) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest on these items, buying and selling exchange, coin, and bullion, and lending money on personal or real security.
- (2) Any corporation presently or after July 13, 1990, engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner for permission to establish, within any county in which its principal office or an existing branch is located, a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is reasonable probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the bank establishing the branch. The following conditions shall apply to applications for branches:
- (a) The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order as defined in KRS 13B.010, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for any period of time he deems to be necessary; and
 - (b) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.
- (3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank may continue to retain and operate the agency or branch bank under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.
- (4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of the banks, nor to prohibit the sale of any bank to, and the purchase by, any other bank in the same county and the operation of the bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by the operation~~[, and provided further that, at the time of the merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more]~~. The bank which does not survive the merger shall surrender its charter.
- (5) Any national banking association or any state bank member of the Federal Reserve system whose principal office is located in this state may do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of these powers.
- (6) When a branch or agency bank has once been established any operation of the branch or agency bank shall not be discontinued, and the branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner the branch or agency bank proposing to discontinue operation may be required to give notice of the date when its operation will cease.

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The Committee Amendment No. 1 to **HB 377** is as follows:

On page 12, lines 24 to 27 by deleting in their entirety;

On page 13, lines 1 to 27 by deleting in their entirety; and

On page 14, lines 1 to 24 by deleting in their entirety.

Calendar

HB 12, HB 365, HB 108, HB 325, HJR 41, HB 113, HB 288, HB 44, HB 126, HB 180, HB 238, HB 290, HB 409, and HB 277 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Marzian moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Marzian moved the adoption of the following **Legislative Citation No. 28**.

The House of Representatives of the Commonwealth of Kentucky hereby extends its most ardent congratulations to Tori Murden-McClure upon becoming both the first woman and the first American to successfully complete a solo and unsupported row across the Atlantic Ocean. A graduate of the University of Louisville School of Law who obtained her Master of Divinity from Harvard University, this distinguished citizen began the 3,333 mile journey from Tenerife, the largest of the Canary Islands in Africa on September 13, 1999 and arrived on the island of Guadeloupe in the Caribbean on December 3, 1999, recording an official time of 81 days, 7 hours and 46 minutes. In addition to this remarkable achievement, Ms. Murden-McClure is the first woman and first American to ski to the Geographic South Pole and the first woman to climb the Lewis Nunatuk in the Antarctic. Inasmuch as this extraordinary citizen has shone forth as a model of the determination and perseverance of the human spirit and, as a result, has brought great recognition to herself, her community and this nation by her efforts in these monumental endeavors, the members of this august body are indeed honored to join with Representative Mary Lou Marzian in honoring Tori Murden-McClure for her phenomenal achievements and in extending warmest wishes as she continues to serve as an inspiration to all those who dare to pursue and achieve their dreams. Done in Frankfort, this twenty-seventh day of January, in the year of our Lord, two thousand.

Legislative Citation No. 28 was adopted without objection. (See January 26, 2000 roll call to show co-sponsors on **Legislative Citation No. 28-Appendix**)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 10, HB 243, HB 317, HB 12, HB 108, HB 277, HB 325, HB 365, HB 409, and HJR 41** have been posted for passage in the Orders of the Day for January 28, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 221, HB 288**

Orders of the Day

HB 186, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 186**. Agreed.

Representative Yonts moved that **HB 186**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 83, Nays 8.** (See January 27, 2000 roll call on **HB 186** - Appendix.)

HB 186, by way of Committee Substitute, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 186**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 192, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 192**. Agreed.

Representative Haydon moved that **HB 192**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 1.** (See January 27, 2000 roll call on **HB 192** - Appendix.)

HB 192, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 192**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 94, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 94**. Agreed.

Representative Stumbo moved that **HB 94**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 27, 2000 roll call on **HB 94** - Appendix.)

HB 94, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 94**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 281 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 281** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See January 27, 2000 roll call on **HB 281** - Appendix.)

HB 281 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 281** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 356 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 356** be passed.

On the roll call the vote was: **Yeas 94, Nays 2.** (See January 27, 2000 roll call on **HB 356** - Appendix.)

HB 356 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 356** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved

that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 372** be passed.

On the roll call the vote was: **Yeas 95, Nays 1.** (See January 27, 2000 roll call on **HB 372** - Appendix.)

HB 372 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 372** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 362 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 362** be passed.

On the roll call the vote was: **Yeas 94, Nays 2.** (See January 27, 2000 roll call on **HB 362** - Appendix.)

HB 362 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 362** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 10 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 10** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 27, 2000 roll call on **HCR 10** - Appendix.)

HCR 10 was adopted.

HCR 13 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 13** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0.** (See January 27, 2000 roll call on **HCR 13** - Appendix.)

HCR 13 was adopted.

HCR 29 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 29** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 27, 2000 roll call on **HCR 29** - Appendix.)

HCR 29 was adopted.

HCR 30 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 30** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 27, 2000 roll call on **HCR 30** - Appendix.)

HCR 30 was adopted.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 492, by Representatives Wayne, Stein, Palumbo, Westrom, Jordan, Marzian, Jenkins, Crenshaw, L. Clark, Johns, Bather, and Burch: AN ACT relating to firearms.

HB 493, by Representatives Crall, Treesh, and Gooch: AN ACT relating to driving under the influence.

HB 494, by Representatives J. Turner, T. Turner, Stewart, Ausmus, Colter, Rader, Upchurch, Alexander, Cornett, and Bratcher: AN ACT relating to criminal records check.

HB 495, by Representatives J. Turner, Rader, Colter, Anderson, Ausmus, Ratliff, Stewart, Alexander, Stacy, Tapp, T. Turner, Napier, D. D. Butler, Upchurch, Cornett, P. Clark, Bratcher, and Heleringer: AN ACT relating to all-terrain vehicles.

HB 496, by Representatives P. Clark, Riggs, L. Clark, and Horlander: AN ACT relating to retirement for University of Louisville Police.

HB 497, by Representatives Marzian and Johns: AN ACT relating to traumatic brain injury.

HB 498, by Representatives Wilkey, Webb, Geveden, and Westrom: AN ACT relating to safety.

HB 499, by Representative J. Adams: AN ACT relating to errors and omissions insurance for real estate appraisers.

HB 500, by Representatives Thomas and Wilkey: AN ACT relating to cigarettes.

HB 501, by Representatives Thomas, Bruce, Nesler, Scott, Wilkey, A. Arnold, J. Adams, McKee, Worthington, J. Arnold, Palmer, Sims, Treesh, and Crall: AN ACT relating to anhydrous ammonia.

HB 502, by Representatives Stumbo, Moberly, Callahan, Barrows, and L. Clark: AN ACT relating to the financing for the budgetary operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities, making an appropriation therefor, and declaring an emergency.

HB 503, by Representative J. Adams: AN ACT relating to real estate appraisers.

HB 504, by Representatives Palumbo, Bowling, Draud, Cherry, Callahan, Stein, Crenshaw, Riggs, Buckingham, C. Belcher, Palmer, Westrom, Gooch, Fischer, Yonts, Rader, Adkins, Kerr, Feeley, Thomas, Sims, Ford, Cave, Stewart, J. Turner, Coleman, R. Adams, Damron, Haydon, Weaver, and Hoffman: AN ACT relating to economic development.

HB 505, by Representatives Gray and Nunn: AN ACT relating to unemployment insurance.

HB 506, by Representatives Vincent, Ballard, C. Belcher, Baugh, Wilkey, Thomas, Sims, Riggs, Napier, and Treesh: AN ACT relating to elementary and secondary schools.

HR 71, by Representative Damron: A RESOLUTION adjourning the House of Representatives in honor of the 200th Anniversary of the Grand Lodge of Kentucky.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 471**

Banking and Insurance: **HB 390**

Tourism, Development, and Energy: **HB 120, HB 417, HB 477, HB 346**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 15**, with Committee Substitute attached thereto, **HB 47**, with Committee Substitute attached thereto, **HB 227**, with Committee Substitute attached thereto, **HB 355, HB 410**, with Committee Substitute attached thereto, and **SB 44**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 15, AN ACT relating to firearms and ammunition for firearms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.155 is amended to read as follows:

- (1) *The General Assembly declares that the lawful design, marketing, manufacture, or sale of firearms or ammunition to*

the public is not an unreasonably dangerous activity and does not constitute a nuisance per se.

- (2) A person or entity shall not be held liable for damages of any kind resulting from injuries to another person sustained as a result of the criminal use of any firearm by a third person, unless the person or entity conspired with the third person to commit, or willfully aided, abetted, or caused the commission of, the criminal act in which the firearm was used.
- (3)(2) This section shall not be construed to negate, limit, or modify the doctrine of negligence or strict liability relating to ~~abnormally dangerous products or activities and~~ defective products.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association, or dealer by or on behalf of any city, county, urban-county, charter county, special district, or other local governmental unit created by or pursuant to an act of the General Assembly or Constitution of Kentucky, or any department, agency, or authority thereof, for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public shall be reserved exclusively to the Commonwealth.
- (2) This section shall not prohibit a city, county, urban-county, charter county, special district, or other local governmental unit created by or pursuant to an act of the General Assembly or Constitution of Kentucky from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by that unit of local government.

Section 3. As of the effective date of this Act, the provisions of Section 2 of this Act shall apply to any lawsuit by, or on behalf of, entities prohibited from filing a lawsuit pursuant to Section 2 of this Act that has been filed and not concluded prior to the effective date of this Act. Any lawsuit in progress which violates Section 2 of this Act shall, as of the effective date of this Act, be dismissed.

The Committee Substitute to **HB 15** is as follows:

HB 15, AN ACT relating to firearms and ammunition for firearms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association, or dealer by or on behalf of any city, county, urban-county, charter county, special district, or other local governmental unit created by or pursuant to an act of the General Assembly or Constitution of Kentucky, or any department, agency, or authority thereof, for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public shall be reserved exclusively to the Commonwealth.
- (2) This section shall not prohibit a city, county, urban-county, charter county, special district, or other local governmental unit created by or pursuant to an act of the General Assembly or Constitution of Kentucky from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by that unit of local government.

Section 2. As of the effective date of this Act, the provisions of Section 1 of this Act shall apply to any lawsuit by, or on behalf of, entities prohibited from filing a lawsuit pursuant to Section 1 of this Act that has been filed and not concluded prior to the effective date of this Act. Any lawsuit in progress which violates Section 1 of this Act shall, as of the effective date of this Act, be dismissed.

HB 47, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of terroristic threatening in the first degree when he or she:
- (a) Intentionally makes false statements that he or she or another person has placed a weapon of mass destruction, as defined in Section 6 of this Act, on:
1. The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;
 2. A school bus or other school owned, operated, or leased vehicle; or
 3. The real property or any building public or private that is the site of an official school sanctioned function; or
- (b) Intentionally and without lawful authority, places a counterfeit weapon of mass destruction at any location or

on any object specified in paragraph (a) of this subsection.

- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed, with the written permission of the chief officer of the school or other institution, as a part of an official training exercise and is placed by a public servant, as defined in KRS 522.010.
- (3) Terroristic threatening in the first degree is a Class B felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of terroristic threatening in the second degree when, other than as provided in Section 1 of this Act, he or she intentionally:
 - (a) Threatens to commit any act likely to result in death or serious physical injury to any student, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education or to any other person reasonably expected to lawfully be on school property or at a school sanctioned activity. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;
 - (b) Makes false statements that he or she has placed a weapon of mass destruction, as defined in Section 6 of this Act, at any location other than one specified in Section 1 of this Act; or
 - (c) Without lawful authority places a counterfeit weapon of mass destruction, as defined in Section 6 of this Act, at any location other than one specified in Section 1 of this Act.
- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.
- (3) Terroristic threatening in the second degree is a Class C felony.

Section 3. KRS 508.080 is amended to read as follows:

- (1) Except as provided in Section 1 or Section 2 of this Act, a person is guilty of terroristic threatening in the third degree when:
 - (a) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or
 - (b) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.
- (2) Terroristic threatening in the third degree is a Class A misdemeanor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of use of a weapon of mass destruction in the first degree when he or she intentionally, without lawful authority, places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant is killed or receives serious physical injury.
- (2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030, or of the use of explosives.
- (3) Use of a weapon of mass destruction in the first degree is a Class A felony unless a person other than the defendant is killed as a result, in which case it is a capital offense.

SECTION 5. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of use of a weapon of mass destruction in the second degree when intentionally, without lawful authority, he or she places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant receives physical injury.
- (2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030, or of the use of explosives.
- (3) Use of a weapon of mass destruction in the second degree is a Class B felony.

Section 6. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "Crime" means a misdemeanor or a felony;
- (3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;
- (4) "Deadly weapon" means any weapon:

- (a) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
 - (b) Any knife other than an ordinary pocket knife or hunting knife;
 - (c) Billy, nightstick, or club;
 - (d) Blackjack or slapjack;
 - (e) Nunchaku karate sticks;
 - (f) Shuriken or death star; or
 - (g) Artificial knuckles made from metal, plastic, or other similar hard material;
- (5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
 - (6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
 - (7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
 - (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
 - (9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;
 - (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
 - (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
 - (12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
 - (13) "Physical injury" means substantial physical pain or any impairment of physical condition;
 - (14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
 - (15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;
 - (16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;~~and~~
 - (17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; ***and***
 - (18) ***"Weapon of mass destruction" means:***
 - (a) ***Any destructive device, as defined in KRS 237.030;***
 - (b) ***Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.;***
 - (c) ***Any weapon involving a disease organism; or***
 - (d) ***Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.***

Section 7. KRS 532.025 is amended to read as follows:

- (1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also

prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

- (b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.
- (2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:
 - (a) Aggravating circumstances:
 1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
 2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;
 3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a ~~weapon of mass destruction~~ [destructive device], weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
 4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
 5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
 6. The offender's act or acts of killing were intentional and resulted in multiple deaths;
 7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; and
 8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect.
 - (b) Mitigating circumstances:
 1. The defendant has no significant history of prior criminal activity;
 2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
 3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
 4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
 5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;
 6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
 7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even

though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.
- (3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty, or imprisonment for life without benefit of probation or parole, or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

The Committee Substitute to **HB 47** is as follows:

HB 47, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of terroristic threatening in the first degree when he or she:
 - (a) Intentionally makes false statements that he or she or another person has placed a weapon of mass destruction, as defined in Section 7 of this Act, on:
 1. The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;
 2. A school bus or other school owned, operated, or leased vehicle;
 3. The real property or any building public or private that is the site of an official school sanctioned function; or
 4. The real property of any building owned or leased by a government agency.
 - (b) Intentionally and without lawful authority, places a counterfeit weapon of mass destruction at any location or on any object specified in paragraph (a) of this subsection.
- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed, with the written permission of the chief officer of the school or other institution, as a part of an official training exercise and is placed by a public servant, as defined in KRS 522.010.
- (3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.
- (4) Terroristic threatening in the first degree is a Class C felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of terroristic threatening in the second degree when, other than as provided in Section 1 of this Act, he or she intentionally:
 - (a) With respect to a school function, threatens to commit any act likely to result in death or serious physical injury to any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education or to any other person reasonably expected to lawfully be on school property or at a school sanctioned activity, and the threat is related to their employment by a school or work or attendance at school or a school function. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;
 - (b) Makes false statements that he or she has placed a weapon of mass destruction, as defined in Section 7 of this Act, at any location other than one specified in Section 1 of this Act; or
 - (c) Without lawful authority places a counterfeit weapon of mass destruction, as defined in Section 7 of this Act, at any location other than one specified in Section 1 of this Act.
- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.
- (3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the

information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.

(4) Terroristic threatening in the second degree is a Class D felony.

Section 3. KRS 508.080 is amended to read as follows:

(1) Except as provided in Section 1 or Section 2 of this Act, a person is guilty of terroristic threatening in the third degree when:

- (a) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or
- (b) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.

(2) Terroristic threatening in the third degree is a Class A misdemeanor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of use of a weapon of mass destruction in the first degree when he or she intentionally, without lawful authority, places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant is killed or receives serious physical injury.

(2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030, or of the use of explosives.

(3) Use of a weapon of mass destruction in the first degree is a Class A felony unless a person other than the defendant is killed as a result, in which case it is a capital offense.

SECTION 5. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of use of a weapon of mass destruction in the second degree when intentionally, without lawful authority, he or she:

- (a) Places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant receives physical injury; or**
- (b) Places a weapon of mass destruction on:**

- 1. The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;**
- 2. A school bus or other school owned, operated, or leased vehicle;**
- 3. The real property or any building, public or private, that is the site of an official school sanctioned function; or**
- 4. The real property of any building owned or leased by a government agency,**

and no person dies or receives any physical injury.

(2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030, or of the use of explosives.

(3) Use of a weapon of mass destruction in the second degree is a Class B felony.

SECTION 6. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 5 of this Act, a person is guilty of use of a weapon of mass destruction in the third degree when intentionally, without lawful authority, he or she places a weapon of mass destruction at any location in the Commonwealth.

(2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030, or of the use of explosives.

(3) Use of a weapon of mass destruction in the third degree is a Class C felony.

Section 7. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "Crime" means a misdemeanor or a felony;
- (3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is

used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

- (4) "Deadly weapon" means any of the following~~weapon~~:

(a) A weapon of mass destruction;

(b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

~~(c)(b)~~ Any knife other than an ordinary pocket knife or hunting knife;

~~(d)(c)~~ Billy, nightstick, or club;

~~(e)(d)~~ Blackjack or slapjack;

~~(f)(e)~~ Nunchaku karate sticks;

~~(g)(f)~~ Shuriken or death star; or

~~(h)(g)~~ Artificial knuckles made from metal, plastic, or other similar hard material;

- (5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
- (6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
- (7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
- (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
- (9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;
- (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
- (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
- (12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
- (13) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
- (15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;
- (16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;~~and~~
- (17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
- (18) "Weapon of mass destruction" means:

(a) Any destructive device, as defined in KRS 237.030 but not fireworks as defined in KRS 227.700;

(b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

(c) Any weapon involving a disease organism; or

(d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Section 8. KRS 532.025 is amended to read as follows:

- (1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a

persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

- (b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

- (2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

- (a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;
3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a weapon of mass destruction~~[destructive device]~~, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
6. The offender's act or acts of killing were intentional and resulted in multiple deaths;
7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; and
8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect.

- (b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;
2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;
6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and
 8. The youth of the defendant at the time of the crime.
- (3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty, or imprisonment for life without benefit of probation or parole, or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

HB 227, AN ACT relating to guardianship and conservatorship for disabled persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.605 is amended to read as follows:

- (1) In appointing a person as guardian or conservator, the court shall first consider appointing a person holding a durable power of attorney, as defined in KRS 386.093, for the respondent. The court shall not appoint the person holding a durable power of attorney only if:
- (a) The person declines the appointment; or
 - (b) The court determines that it is not in the best interests of the respondent to appoint the person holding a durable power of attorney as guardian or conservator.
- (2) If the court does not appoint a guardian or conservator under subsection (1) of this section, the court shall give preference to people who meet the following qualifications when appointing a person as guardian or conservator:
- (a) Kinship to respondent;
 - (b) Education and business experience of applicant;
 - (c) Capability to handle financial affairs; and
 - (d) Ability to carry out the requirements set forth in KRS 387.660 to 387.710 and 387.750.

The Committee Substitute to **HB 227** is as follows:

HB 227, AN ACT relating to guardianship and conservatorship for disabled persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.605 is amended to read as follows:

- (1) In appointing a person as guardian or conservator, the court shall first consider appointing a person holding a durable power of attorney, as defined in KRS 386.093, for the respondent. The court shall not appoint the person holding a durable power of attorney only if:
- (a) The person declines the appointment; or
 - (b) The court determines that it is not in the best interests of the respondent to appoint the person holding a durable power of attorney as guardian or conservator.
- (2) If the court does not appoint a guardian or conservator under subsection (1) of this section, the court shall give preference to people who meet the following qualifications when appointing a person as guardian or conservator:
- (a) Kinship to respondent;
 - (b) Education and business experience of applicant;
 - (c) Capability to handle financial affairs; and
 - (d) Ability to carry out the requirements set forth in KRS 387.660 to 387.710 and 387.750.

Section 2. KRS 387.570 is amended to read as follows:

- (1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of determining the disability of a respondent, the respondent shall have a jury trial, except when the court, county attorney, respondent or respondent's representative, and respondent's legal counsel all agree to waive the jury trial. The respondent~~and~~ shall always have the right to present evidence and to confront and cross-examine all witnesses.

- (2) The hearing may be closed to the public on request of the respondent or his counsel.
- (3) The respondent shall be present at the hearing, and his presence may be waived only upon a determination of the court that his attendance would subject him to serious risk of harm. Such determination shall be evidence only of the respondent's inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.
- (4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.
- (5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.
- (6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by KRS 387.540 testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.

HB 355, AN ACT relating to visitation rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding the provisions of KRS 403.320, if a parent of a child is convicted of murder or manslaughter in the first degree of the other parent, a court shall not grant the convicted parent visitation rights with respect to that child unless the court, through a hearing, determines that visitation is in the child's best interest.
- (2) If the court later modifies a denial of visitation to grant visitation, the court shall do so only after a hearing which establishes that visitation is in the child's best interest.
- (3) In any hearing conducted under subsection (1) or (2) of this section:
 - (a) Jurisdiction shall lie with the Circuit Court of the county where the child resides; and
 - (b) The convicted parent, to obtain visitation, shall have to meet the burden of proving that visitation is in the child's best interest.

HB 410, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.030 is amended to read as follows:

- (1) A person is guilty of defacing a firearm when he intentionally defaces a firearm.
- (2) Defacing a firearm is a Class D felony~~[A misdemeanor]~~.

Section 2. KRS 527.050 is amended to read as follows:

- (1) A person is guilty of possession of a defaced firearm when he knowingly possesses a defaced firearm unless he makes a report to the police or other appropriate government agency of such possession prior to arrest or authorization of a warrant by a court.
- (2) Possession of a defaced firearm is a Class D felony~~[A misdemeanor]~~.

The Committee Substitute to **HB 410** is as follows:

HB 410, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.030 is amended to read as follows:

- (1) A person is guilty of defacing a firearm when he intentionally defaces a firearm with the intent to permanently prevent identification of the firearm.
- (2) The fact that identification or a number of a firearm can be restored through laboratory analysis does not negate the intent to permanently prevent the identification of the firearm.
- (3) Defacing a firearm is a Class D felony~~[A misdemeanor]~~.

Section 2. KRS 527.050 is amended to read as follows:

- (1) A person is guilty of possession of a defaced firearm when he knowingly possesses a defaced firearm with the intent to permanently prevent identification of the firearm unless he makes a report to the police or other appropriate government agency of such possession prior to arrest or authorization of a warrant by a court.

- (2) The fact that identification or a number of a firearm can be restored through laboratory analysis does not negate the intent to permanently prevent the identification of the firearm.
- (3) Possession of a defaced firearm is a Class D felony~~[A misdemeanor]~~.

SB 44, AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

- (1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.
- (2) A proceeding may be filed by any owner of real property or any party acquiring an interest in the real property in District Court or Circuit Court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.
- (3) Upon proof to the court of the lien being satisfied, the court shall enter a judgment releasing the lien. The judgment ~~shall~~may be with costs including a reasonable attorney's fee. If the court finds that the lienholder lacked good cause for not releasing the lien, the lienholder ~~shall~~may be liable to the owner of the real property in the amount of one hundred dollars (\$100) per day for each day of the violation for which good cause did not exist~~[that the lienholder fails to release a lien after the entry of a judgment by the court]~~.
- (4) A lienholder that ~~violates subsection (1) of this section may be liable to the owner of the real property for one hundred dollars (\$100). A lienholder that~~ fails to release a satisfied real estate lien, without good cause, within forty-five (45) days from the date of satisfaction ~~shall~~may be liable to the owner of the real property for an additional four hundred dollars (\$400) per day for each day for which good cause did not exist after the forty-fifth day from the date of satisfaction, for a total of five hundred dollars (\$500) per day for each day for which good cause did not exist after the forty-fifth day from the date of satisfaction. The lienholder ~~shall~~may also be liable for any actual expense including a reasonable attorney's fee incurred by the owner in securing the release of real property by such violation.
- (5) The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner at his last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property for fifty dollars (\$50) and any actual expense incurred by the owner in obtaining documentation of the lien release.
- (6) For the purposes of this section, "date of satisfaction" means that date of receipt by a holder of a lien on real property of a sum of money in the form of a certified check, cashier's check, wired transferred funds, or other form of payment satisfactory to the lienholder that is sufficient to pay the principal, interest, and other costs owing on the obligation that is secured by the lien on the property.
- (7) The provisions of this section shall not apply when a lienholder is deceased and the estate of the lienholder has not been settled.
- (8) If a court finds, in a proceeding filed under this section, that a lienholder violated subsection (1) of this section without good cause, then, notwithstanding any other law, every lien or security interest of that lienholder that otherwise would have perfected during the violation shall be deemed not to be perfected until the underlying lien is released.

The House Committee Substitute to SB 44 is as follows:

SB 44, AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

- (1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.
- (2) A proceeding may be filed by any owner of real property or any party acquiring an interest in the real property in District Court or Circuit Court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.
- (3) Upon proof to the court of the lien being satisfied, the court shall enter a judgment releasing the lien. The judgment ~~shall~~may be with costs including a reasonable attorney's fee. If the court finds that the lienholder received written notice of its failure to release and lacked good cause for not releasing the lien, the lienholder ~~shall~~may be liable to the owner of the real property in the amount of one hundred dollars (\$100) per day for each day, beginning on the fifteenth day after receipt of the written notice, of the violation for which good cause did not exist~~[that the lienholder fails to release a lien after the entry of a judgment by the court]~~.
- (4) A lienholder that continues to fail~~[violates subsection (1) of this section]~~ may be liable to the owner of the real property

~~for one hundred dollars (\$100). A lienholder that fails]~~ to release a satisfied real estate lien, *without good cause*, within forty-five (45) days from the date of ~~written notice shall [satisfaction may]~~ be liable to the owner of the real property for an additional four hundred dollars (\$400) *per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice*, for a total of five hundred dollars (\$500) *per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice*. The lienholder ~~shall [may]~~ also be liable for any actual expense including a reasonable attorney's fee incurred by the owner in securing the release of real property by such violation.

- (5) The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner at his last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property for fifty dollars (\$50) and any actual expense incurred by the owner in obtaining documentation of the lien release.
- (6) For the purposes of this section, "date of satisfaction" means that date of receipt by a holder of a lien on real property of a sum of money in the form of a certified check, cashier's check, wired transferred funds, or other form of payment satisfactory to the lienholder that is sufficient to pay the principal, interest, and other costs owing on the obligation that is secured by the lien on the property.
- (7) The provisions of this section shall not apply when a lienholder is deceased and the estate of the lienholder has not been settled.
- (8) *The state licensing agency, if applicable, or any holder of a lien on real property shall be notified of the disposition of any actions brought under this section against the lienholder.*
- (9) *The provisions of this Act shall be held and construed as ancillary and supplemental to any other remedy provided by law.*

Motions, Petitions, and Communications (Continued)

Representative Baugh moved the adoption of the following **Legislative Citation No. 30.**

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Patricia Goodman Callaway and expresses deepest sympathy to her loving husband, Tom Callaway, and her beloved children, mother, sisters, and brothers. A native of Logan County and member of the Class of 1961 at Lewisburg High School, she lived in Nashville in recent years, but had remained actively involved with her family members and her high school alumni association. Inasmuch as Patricia Goodman Callaway is remembered this day as a generous and caring woman whose presence will long be cherished and sorely missed by those whose lives were touched by her kind countenance, the members of this august body do solemnly join with Representative Sheldon Baugh in extending sincere and heartfelt condolences to her loving family and friends. Done in Frankfort, this twenty-seventh day of January, in the year of our Lord, two thousand.

Legislative Citation No. 30 was adopted without objection.

Representative Barrows moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following **Legislative Citation No. 31.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends The Council of State Governments a most remarkable non-partisan, nonprofit organization of consummate professionals which seeks to foster excellence in state government by providing leaders in the executive, judicial and legislative branches of state government with a network for identifying and sharing ideas through leadership education, research and information services. The members of this honorable body are delighted to join Representative Joe Barrows in honoring CSG for giving astute and generous assistance to the Kentucky Legislature and in expressing appreciation that the CSG headquarters, which manages a vast array of national programs, is located in Lexington, Kentucky. It is with a sense of pride and gratitude that we honor this valuable organization today for its impressive contributions to this most worthwhile and complex legislative process, that of shaping the future of this great Commonwealth in such a way that each citizen will be well served by the honorable members of this august body. Done in Frankfort, this twenty-seventh day of January, in the year of our Lord, two thousand.

Legislative Citation No. 31 was adopted without objection.

Representative Damron moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Damron moved the adoption of the following **Legislative Citation No. 32.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Grand Lodge of Kentucky as this remarkable organization celebrates 200 years of service to the fraternity and the Commonwealth. Upon the petition of Green Clay to Virginia Lodge #25 in 1788, it was granted that members could hold a regular Lodge of Free Masons in the town of Lexington, Kentucky, representing the first lodge west of the Allegheny Mountains and which is now known as Lexington Lodge #1. Having gained permission for severance from Virginia in 1800, the Grand Lodge of Kentucky was established. The members of this honorable body are delighted to join Representative Robert R. Damron in extending sincere congratulations on the auspicious occasion of the Grand Lodge of Kentucky's 200th Anniversary. Done in Frankfort, this twenty-seventh day of January, in the year of our Lord, two thousand.

Legislative Citation No. 32 was adopted without objection.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that he be recorded as voting "yea" on **HB 356**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 186**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 356**, by Representative Bratcher:

On page 2, after line 17 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) The Flood Control Advisory Commission shall establish a subcommittee for each county containing a city of the first class to study development in that county's flood plain.
- (2) The subcommittee shall consist of seven (7) members appointed as follows:

 - (a) One (1) appointed by the county judge/executive of the county containing a city of the first class;
 - (b) One (1) appointed by the mayor of the city of the first class within the county containing a city of the first class;
 - (c) One (1) appointed by a citizen group that is involved with development issues in the county containing a city of the first class;
 - (d) One (1) appointed by a builders' group;
 - (e) Two (2) persons residing in the flood plain of the county containing a city of the first class appointed by the county judge/executive of the county containing a city of the first class; and
 - (f) One (1) person representing the metropolitan sewer district as defined in KRS 76.005.
- (3) The subcommittee shall meet twice each year and shall study and recommend flood plain development issues and shall report on these issues, and any findings, to the Flood Control Advisory Commission and to the governing body of the county containing a city of the first class.
- (4) Each subcommittee member shall serve a four (4) year term, except that the initial appointees shall serve terms as follows:

 - (a) One (1) member shall serve for a term of one (1) year from the date of appointment;
 - (b) Two (2) members shall serve for a term of two (2) years from the date of appointment;
 - (c) Two (2) members shall serve for a term of three (3) years from the date of appointment; and
 - (d) Two (2) members shall serve for a term of four (4) years from the date of appointment.
- (5) Subcommittee members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.
- (6) The subcommittee shall annually elect one (1) of its members as chairperson. A quorum for the transaction of business shall be four (4) members, and a majority of the subcommittee members present at a meeting may take action on any matter legally before it.
- (7) Subcommittee members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties.
- (8) The Flood Control Advisory Commission, established in KRS 151.560, shall provide the staff services and resources necessary to support the subcommittee in its duties."

Floor Amendment No. 4 to **HB 70**, by Representative Kerr:

On page 1, delete lines 1 to 17 in their entirety and insert in lieu thereof:

"Section 1. KRS 344.130 is amended to read as follows:

As used in this chapter, unless the context requires otherwise, ~~{ }~~

"place of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds, ~~{ }~~ except that:

- (1) A private club is not a "place of public accommodation, resort, or amusement" if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; ~~{and}~~
- (2) "Place of public accommodation, resort, or amusement" does not include a rooming or boarding house containing not more than one (1) room for rent or hire and which is within a building occupied by the proprietor as his residence; **and**
- (3) **"Place of public accommodation, resort, or amusement" does not include a religious organization and its activities and facilities if the application of KRS 344.120 would not be consistent with the religious tenets of the organization, subject to paragraphs (a) and (b) of this subsection.**
 - (a) A religious organization that sponsors nonreligious activities that are operated and governed by the organization, and that are offered to the general public, shall not deny participation by an individual in those activities on the ground of disability, race, color, religion, or national origin.**
 - (b) A religious organization shall not under any circumstances discriminate in its activities or use of its facilities on the ground of disability, race, color, or national origin."**

Floor Amendment No. 1 to Committee Substitute to **HB 180**, by Representative Adkins:

On page 9, line 11, replace the word "division" with the word "office".

Floor Amendment No. 2 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the first use of the word "Assembly", by adding the following:

", or the political campaigns of any candidate for an elective executive branch position,".

Floor Amendment No. 3 to **HR 43**, by Representative Anderson:

On page 1 line 3, after the word "session", by adding the words ", and urges that any such fundraisers not be held at the Governor's Mansion, Lieutenant Governor's Mansion, or any other state government property or facility".

Floor Amendment No. 4 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the word "session", by adding the words ", and urges that the members of the General Assembly and the candidates for elective executive branch positions not participate in such political fundraisers twenty-eight days immediately preceding a primary or regular election".

Floor Amendment No. 5 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the first use of the word "Assembly", by adding the following:

", or the political campaigns of any candidate for an elective executive branch position,"; and

On page 1 line 3, after the word "session", by adding the words ", and urges that any such fundraisers not be held at the Governor's Mansion, Lieutenant Governor's Mansion, or any other state government property or facility, and urges that the members of the General Assembly and the candidates for elective executive branch positions not participate in such political fundraisers twenty-eight days immediately preceding a primary or regular election."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 15: Representative Weaver

HB 57: Representatives Alexander, Ausmus, Ford, Ratliff

HB 73: Representative Rasche
HB 111: Representative Kerr
HB 180: Representatives Crimm, Gooch
HB 188: Representative Ratliff
HB 221: Representative Weaver
HB 236: Representative Worthington
HB 258: Representatives Bratcher, Siler
HB 267: Representative C. Belcher
HB 341: Representative Graham
HB 348: Representative Riggs
HB 366: Representative Weaver
HB 439: Representative Graham
HB 440: Representative Kerr
HB 450: Representative Colter
HB 490: Representatives Gray, Westrom
HB 498: Representative Jenkins

The following members filed requests to have their names withdrawn as co-sponsors of a Bill under rules previously suspended:

HB 438: Representatives Colter, T. Turner

Announcements

The following meeting was announced:

Budget Review Subcommittee on Human Services, February 1, 2000, 12:00 noon

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 28, 2000.

On the roll call the vote was **Yeas 80**--R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ausmus, Ballard, Barrows, Baugh, C. Belcher, L. Belcher, Bowling, Bratcher, Bruce, Buckingham, D. Butler, D. D. Butler, Callahan, Cave, Cherry, Childers, L. Clark, Collins, Colter, Cornett, Crenshaw, Crimm, Damron, Draud, Fischer, Ford, Geveden, Gooch, Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nesler, Palmer, Palumbo, Polston, Rader, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stewart, Stumbo, Thomas, Treesh, J. Turner, Upchurch, Vincent, Wayne, Weaver, Webb, Westrom, Wilkey, Worthington, Yonts. **Nays 4**--Crall, Feeley, Nunn, Tapp.

The motion to adjourn was adopted.

JANUARY 28, 2000
EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Ronald Shaver, Little Fork Baptist Church, Shepherdsville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Branham and Burch.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 27, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 507, by Representatives Stewart, C. Belcher, Webb, J. Arnold, DeWeese, J. Turner, Jenkins, Colter, Jordan, Johns, Crimm, Marzian, Stein, Rader, Palumbo, Sims, Westrom, Kerr, Walton, and Siler: AN ACT relating to absentee voting and declaring an emergency.

HB 508, by Representatives McKee, R. Adams, Simpson, Callahan, Draud, Fischer, Kerr, Walton, and Marcotte: AN ACT relating to NASCAR special license plates.

HB 509, by Representative Weaver: AN ACT relating to eligibility requirements for state programs.

HB 510, by Representative Wayne: AN ACT relating to the executive branch code of ethics.

HB 511, by Representative Wayne: AN ACT relating to the executive branch ethics code.

HB 512, by Representative Wayne: AN ACT relating to the executive branch ethics code.

HB 513, by Representative Wayne: AN ACT relating to the executive branch code of ethics.

HJR 72, by Representative Alexander: A JOINT RESOLUTION directing the Transportation Cabinet to name a portion of Kentucky Route 15 in Perry County in memory of Edward L. "Buggy" Clemons.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 500, HB 501**

Appropriations and Revenue: **HB 502**

Economic Development: **HB 490, HB 504**

Education: **HB 506**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 487**

Health and Welfare: **HB 489, HB 497**

Judiciary: **HB 485, HB 492, HB 493, HB 494, HB 498, SB 33**

Labor and Industry: **HB 486, HB 505**

Licensing and Occupations: **HB 499, HB 503**

Natural Resources and Environment: **HJR 70**

State Government: **HB 491, HB 496**

Transportation: **HB 488, HB 495**

House Floor: **HR 71**

Report of Committees

The Committee on Committees has met and made the following changes of committee assignments:

Remove Representative Bather from the Committee on Transportation

Appoint Representative Bather to the Committee on Health and Welfare

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 400, HB 401, HB 402, HB 403, HB 88, HB 89, HB 475, HB 433**

Seniors, Military Affairs, and Public Safety: **HB 148, HB 295**

Calendar

HB 381, HB 236, HB 301, HB 302, HB 328, HB 331, HB 335, HB 423, HB 50, HB 73, HB 300, HB 377, HB 15, HB 47, HB 227, HB 355, HB 410, and SB 44 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 13, SB 52, SB 56, and SB 58**. (Time: 10:05 a.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 218, HB 310, HB 113, HB 126, HB 290, HB 301, HB 302, HB 331, HB 335, and HB 355** have been posted for passage in the Orders of the Day for February 1, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 63, HB 268, HB 44, and HB 180**

Orders of the Day

HB 115, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 115**. Agreed.

Representative Feeley moved the adoption of the Floor Amendment No. 3, to the Committee Substitute to **HB 115**. Agreed.

Representative Wayne moved the adoption of Floor Amendment No. 4, to the Committee Substitute to **HB 115**. Agreed.

Representative Wayne moved that **HB 115**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 78, Nays 14**. (See January 28, 2000 roll call on **HB 115** - Appendix.)

HB 115, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 115**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved that **HB 175** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 28, 2000 roll call on **HB 175** - Appendix.)

HB 175 was passed and the title agreed to.

Representative Sims moved that the vote by which **HB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 243, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 243**. Agreed.

Representative Stumbo moved that **HB 243**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See January 28, 2000 roll call on **HB 243** - Appendix.)

HB 243, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 243**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 317**. Agreed.

Representative Stumbo moved that **HB 317**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See January 28, 2000 roll call on **HB 317** - Appendix.)

HB 317, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 317**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 277, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved the adoption of Committee Amendment No. 1 to **HB 277**. Agreed.

Representative J. Arnold moved that **HB 277**, as amended, be passed.

Representative Yonts moved the adoption of Committee Amendment No. 2 to **HB 277**. Rejected.

On the roll call the vote was: **Yeas 92, Nays 4**. (See January 28, 2000 roll call on **HB 277** - Appendix.)

HB 277, as amended, was passed and the title agreed to.

Representative J. Arnold moved that the vote by which **HB 277**, as amended, was passed be reconsidered and said motion

be placed on the table. Agreed.

HB 409, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute No. 1 to **HB 409**. Agreed.

Representative Hoffman moved that **HB 409**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 2**. (See January 28, 2000 roll call on **HB 409** - Appendix.)

HB 409, by way of Committee Substitute, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 409**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 41 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HJR 41** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See January 28, 2000 roll call on **HJR 41** - Appendix.)

HJR 41 was adopted.

Representative Wilkey moved that the vote by which **HJR 41** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 514, by Representatives Heleringer, Wayne, Jordan, and Marzian: AN ACT relating to crimes and punishments.

HJR 73, by Representatives Weaver, Westrom, Haydon, Cornett, Lee, L. Clark, Miller, Cherry, C. Belcher, Damron, Bratcher, Graham, McKee, Worthington, Wilkey, Palumbo, Webb, Barrows, Geveden, J. Arnold, Adkins, Stacy, Wayne, Crall, Treesh, Kerr, Ausmus, Tapp, Richards, Callahan, and Stumbo: A JOINT RESOLUTION creating a Task Force on Senior Citizens and the Workforce, providing for the membership thereof, and specifying activities and responsibilities.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Education: **HB 437, HJR 56, HB 58, HB 462**

Economic Development: **HB 287**

Licensing and Occupations: **HB 472, HB 466, HB 463**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 424, HB 454, HB 413**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that when the House adjourns this day it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns it does so until the hour of 4:00 p.m., February 1, 2000. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HJR 14**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Adams moved that his vote be changed from "yea" to "nay" on **HB 317**. Agreed.

Representative Bruce moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that his vote be changed from "yea" to "nay" on **HB 317**. Agreed.

Representative Cornett moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cornett moved that his vote be changed from "nay" to "yea" on **HB 115**. Agreed.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 33**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Scott County School System 5th Grade Leadership Students. The members of this esteemed body are delighted to join Representative Charlie Hoffman in paying tribute to the remarkable participants of this outstanding program, which is designed to cultivate leadership abilities, exemplary character, good citizenship and community involvement. The Scott County School System's 5th Grade Leadership Students are hereby extended a hearty welcome to the Chambers of the House of Representatives to witness a day in the 2000 Regular Session of the Kentucky General Assembly and afforded best wishes as each continues to serve as a guiding example for others to follow. Done in Frankfort, this twenty-eighth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 33 was adopted without objection.

Representative Stumbo moved that **HB 36** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Treesh moved that **HB 337** be withdrawn. Agreed.

Representative Treesh moved that **HB 338** be withdrawn. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that his vote be changed from "yea" to "nay" on **HB 317**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 331**, by Representative Gray:

On pages 1, 2, 3, 4, 5, and 6, by deleting everything following the enacting clause and inserting in lieu thereof the following:

"Section 1. KRS 95.435 is amended to read as follows:

- (1) The police department in cities of the second class, and urban-county government shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.
- (2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.
- (3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained in the court but shall be returned to the police department.
- (4) All property except firearms that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose after having been advertised pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government. Firearms shall be transferred to the Kentucky State Police within ninety (90) days of abandonment, confiscation, release of the weapon as evidence, or forfeiture by a court, whichever occurs

~~later~~[disposed of as provided by KRS 500.090].

Section 2. KRS 500.090 is amended to read as follows:

- (1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.
 - (a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.
 - (b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:
 1. The state, if the property was seized by an agency of the state or peace officer thereof;
 2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
 3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
 4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
 6. The state, if the property was seized by any combination of agencies listed above.
 - (c) Subject to the duty to return confiscated firearms **and ammunition** to innocent owners pursuant to this section, all firearms **and ammunition** confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms **and ammunition** coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence~~[sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearms sold]~~. Prior to the sale of any firearm **or ammunition**, the law enforcement agency shall make a bona fide attempt to determine if the firearm **or ammunition** to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm **and ammunition** to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms **and ammunition** shall not apply to firearms **and ammunition** auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms **and ammunition** of the type auctioned.
 - ~~(d)~~ ~~Proceeds from firearms sales shall be utilized by the law enforcement agency for the purchase of body armor meeting National Institute of Justice Standards for sworn officers of the law enforcement agency or for the purchase of firearms, ammunition, or range facilities, or a combination thereof, by the law enforcement agency. This subsection shall not apply to the Department of Fish and Wildlife.~~
 - ~~(e)~~ If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.
 - ~~(e)~~~~(f)~~ Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.
- (2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.
- (3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

- (4) The trial court shall remit the forfeiture of property when the lawful claimant:
- (a) Asserts his claim before disposition of the property pursuant to this section;
 - (b) Establishes his legal interest in the property; and
 - (c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.
- (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
- (6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.
- (7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

Section 3. KRS 16.220 is amended to read as follows:

- (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus Property, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection ~~(3)~~~~(2)~~ of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.
- (2) *The Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.*
- (3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police and sheriff's departments for the purchase of body armor for sworn peace officers of those departments. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.
- (4) *The Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

No court or law enforcement agency shall retain a firearm or ammunition for official use for the purpose of avoiding transfer of the firearm or ammunition to the Kentucky State Police under KRS 237.090, 500.090, or other statute to avoid its being sold pursuant to KRS 16.220."

Floor Amendment No. 1 to **HB 423**, by Representative Riggs:

On Page 2, after line 2, by inserting,

"Section 2. Whereas the reclassification of cities can only occur during a session of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 1 to **HB 355**, by Representative Lindsay:

On page 1, line 6, after "is" insert "in".

Floor Amendment No. 6 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the word "session", by adding the words ", and urges that lobbyists not participate in any political fundraisers for a political party in the twenty-eight days immediately preceding the gubernatorial primary or the gubernatorial regular election".

Floor Amendment No. 7 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the word "session.", by adding the following:

"The House further urges that, within the twenty-eight days immediately preceding a gubernatorial primary or a gubernatorial regular election, lobbyists not participate in any political fundraisers for a political party. The House also urges lobbyists to refrain from supporting or attending any fundraisers that are held at the Governor's Mansion or Lieutenant Governor's Mansion. The House also urges lobbyists not to give contributions to any gubernatorial slate or candidate for an elective executive branch position at any time."

Floor Amendment No. 8 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the word "session", by adding the following:

", and urge lobbyists not to give contributions to any gubernatorial slate or candidate for an elective executive branch position at any time".

Floor Amendment No. 9 to **HR 43**, by Representative Anderson:

On page 1, line 3, after the word "session.", by adding the words "The House also urges lobbyists to refrain from supporting or attending any fundraisers that are held at the Governor's Mansion or Lieutenant Governor's Mansion."

Floor Amendment No. 1 to Committee Substitute to **HB 290**, by Representative Jenkins:

On page 2, line 6, by deleting "license" and inserting "certify" in lieu thereof.

Floor Amendment No. 1 to Committee Substitute to **HB 227**, by Representative Wilkey:

On pages 1 and 2, delete Section 2: in its entirety and insert in lieu thereof:

"Section 2. KRS 387.570 is amended to read as follows:

- (1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of determining the disability of a respondent, the respondent shall ~~have a jury trial and shall~~ have the right to present evidence and to confront and cross-examine all witnesses.
- (2) The hearing may be closed to the public on request of the respondent or his counsel.
- (3) The respondent shall be present at the hearing, and his presence may be waived only upon a determination of the court that his attendance would subject him to serious risk of harm. Such determination shall be evidence only of the respondent's inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.
- (4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.
- (5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.

- (6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by KRS 387.540 testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.

(7) If demanded by or on behalf of any party, the hearing shall be by jury. Otherwise, the court may hold the hearing with or without a jury as the court may elect.

Section 3. KRS 387.580 is amended to read as follows:

- (1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial disability or disability, the **court, or the jury if one is impaneled**, shall:
- (a) Inquire into the nature and extent of the general intellectual functioning of the respondent;
 - (b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;
 - (c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and
 - (d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.
- (2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.
- (3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:
- (a) The type of guardian or conservator to be appointed;
 - (b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;
 - (c) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;
 - (d) The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;
 - (e) The individual or entity, if any, to be appointed as standby guardian or conservator; and
 - (f) The duration of the term of guardianship or conservatorship."

Floor Amendment No. 1 to Committee Substitute to **HB 218**, by Representative Stacy:

On page 1, line 10, after "in", by deleting "**general practice**" and by removing the brackets and strikethroughs; and

On page 3, line 27, after "in" by inserting "**primary care**"; and by bracketing and striking through "general practice".

Floor Amendment No. 2 to Committee Substitute to **HB 188**, by Representative Yonts:

On page 1, line 2, by placing "**(1)**" before the first word on line 2; and after line 19, by adding the following subsection:

"(2) The remedies provided under this section shall not be interpreted or construed to provide a private cause of action against the employer, or to alter the claims adjudication procedures under this chapter, or to eliminate the exclusive remedy provided under this chapter. Any civil action brought under this section shall only be against the insurance carrier, self-insurance group or third party administrator for a self-insured employer or group."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 6:** Representative Stewart
- HB 70:** Representative Stewart
- HB 180:** Representatives Ausmus, Treesh
- HB 258:** Representatives R. Adams, Stewart
- HB 262:** Representative Heleringer
- HB 281:** Representatives Johns, Jordan

HB 348: Representatives Draud, McKee

HB 377: Representative Ausmus

HB 378: Representative Crimm

HB 412: Representative Reinhardt

HB 439: Representative C. Belcher

HB 476: Representative Stein

HB 508: Representative Reinhardt

The following member has filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 123: Representative Bruce

Announcements:

The following meetings were announced:

Budget Review Subcommittee on Human Services, February 1, 2000, noon

State Government, February 1, 2000, noon

Appropriations and Revenue, February 1, 2000, 2:00 p.m.

Seniors, Military Affairs, and Public Safety, February 1, 2000, upon adjournment

The following meeting was canceled:

Tourism, Development, and Energy, February 2, 2000, upon adjournment

Adjournment

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the House adjourn until 4:00 p.m., February 1, 2000.

The motion that the House adjourn until 4:00 p.m., February 1, 2000, was adopted by voice vote.

FEBRUARY 1, 2000
NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother David Hinson, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cornett, Cox, and Lindsay.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 28, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Graham moved that the rules be suspended to grant floor privileges to special guests and to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 34**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to the members of Encore upon the occasion of their visit to the chambers of the Kentucky House of Representatives on this day of the 2000 Regular Session. These phenomenal young gentlemen are further offered sincere gratitude for their gracious consent to regale the members of this distinguished body with a medley of Southern gospel tunes showcasing the tremendous musical ability of these four highly lauded students of Franklin County High School. Encore, made up of the talents of Nick Blandford, John Carlton, Michael Updike and Brandon Watkins, has traveled to various churches spreading the gospel through music and has performed at such prestigious events as the recent Governor's Prayer Breakfast, a youth conference in Alabama and the 1999 Farm Bureau competition at the State Fair, where they attained top honors for their performance. Inasmuch as the members of this unique singing ensemble have demonstrated an admirable gift for praising the Lord through song, the members of this august body are delighted to join Representative Gippy Graham in applauding the much appreciated performance of Encore, in congratulating them upon recently traveling to Nashville, Tennessee, to record a CD of their music, and in extending to them best wishes for success and good fortune as they continue to touch the lives of those whose pleasure it is to see them perform. Done in Frankfort, this first day of February, in the year of our Lord, two thousand.

Legislative Citation No. 34 was adopted without objection.

Representative Colter moved that the rules be suspended to grant floor privileges to a guest. Agreed.

Introduction of Bills and Resolutions

HB 515, by Representative Adkins: AN ACT relating to the Department for the Blind.

HB 516, by Representatives Treesh and Crall: AN ACT relating to workers' compensation and declaring an emergency.

HB 517, by Representatives Bratcher, DeWeese, Crimm, Nunn, Colter, Reinhardt, Damron, Weaver, Westrom, Heleringer, and Gooch: AN ACT relating to managed care.

HB 518, by Representatives J. Turner, Gray, Ratliff, Jenkins, D. Butler, Anderson, Cornett, Yonts, Miller, and Hoffman: AN ACT relating to workers' compensation.

HB 519, by Representatives Miller, Marzian, Johns, L. Clark, Weaver, Westrom, Polston, D. Butler, Worthington, J. Turner, Scott, Sims, Colter, Crimm, Nunn, Horlander, P. Clark, Siler, L. Belcher, Walton, Wayne, Thompson, Anderson, Jordan, Jenkins, Bratcher, Hoffman, Stacy, Adkins, J. Arnold, Cherry, and Wilkey: AN ACT relating to teachers' retirement.

HB 520, by Representatives Webb and Barrows: AN ACT relating to insurance.

HB 521, by Representatives Wayne and J. Adams: AN ACT relating to historic structures.

HB 522, by Representatives Wayne and J. Adams: AN ACT relating to planning personnel.

HB 523, by Representatives Wayne and J. Adams: AN ACT relating to agriculture and making an appropriation therefor.

HB 524, by Representatives Wayne and J. Adams: AN ACT relating to land use and planning, and making an appropriation therefor.

HB 525, by Representative Branham: AN ACT relating to medical directors of managed care plans.

HB 526, by Representative Draud: AN ACT relating to property.

HB 527, by Representative Coleman: AN ACT relating to property taxes.

HCR 74, by Representatives P. Clark, L. Clark, and Horlander: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Kentucky Retirement Systems Study Group to conduct a comprehensive analysis of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, and to make recommendations thereon.

HR 75, by Representatives Branham, Gooch, Ratliff, Stumbo, Collins, Childers, Adkins, J. Arnold, Webb, Colter, and J. Turner: A RESOLUTION urging Congress and the Executive Branch of the United States to work together to reform the financial structure of the Coal Industry Retiree Health Benefit Act.

HJR 76, by Representative Vincent: A JOINT RESOLUTION directing the Transportation Cabinet to rename Kentucky Route 168 in Boyd County in honor of former County Judge/Executive Paul F. Purvis.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **SB 56, SB 58**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 507**

Judiciary: **HB 514, SB 13, SB 52**

Seniors, Military Affairs, and Public Safety: **HJR 73**

State Government: **HB 509, HB 510, HB 511, HB 512, HB 513**

Transportation: **HB 508, HJR 72**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 349, HB 408**

Banking and Insurance: **SB 40**

Licensing and Occupations: **HB 393, HB 499, HB 503**

Report of Committees

The Committee on State Government reported **HB 339**, with Committee Substitute attached thereto, **HB 374, SB 24, SB 25, SB 26, HCR 28, HJR 42**, with Committee Substitute attached thereto, and **HCR 53** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 339, AN ACT relating to governmental ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.606 is amended to read as follows:

The proper operation of democratic government requires that a public official be independent and impartial; that government policy and decisions be made through the established processes of government; that a public official not use public office to obtain private benefits; that a public official avoid action which creates the appearance of using public office to obtain a benefit; and that the public have confidence in the integrity of its government and public officials. *This confidence is advanced when legislative agents or employers refrain from supporting political fund-raisers that directly or indirectly benefit political campaigns for membership in the Kentucky General Assembly while the Kentucky General Assembly is in session.*

The Committee Substitute to **HB 339** is as follows:

HB 339, AN ACT relating to governmental ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.606 is amended to read as follows:

The proper operation of democratic government requires that a public official be independent and impartial; that government policy and decisions be made through the established processes of government; that a public official not use public office to obtain private benefits; that a public official avoid action which creates the appearance of using public office to obtain a benefit; and that the public have confidence in the integrity of its government and public officials. *Legislative agents and their employers shall refrain from supporting political fund-raisers that directly or indirectly benefit political campaigns for membership in the Kentucky General Assembly while the Kentucky General Assembly is in session.*

HB 374, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.068 is amended to read as follows:

- (1) There is created an agency of state government known as the Office of State Budget Director. The office shall be attached for administrative purposes to the Office of the Governor.
- (2) The office shall include the following major organizational units:
 - (a) The Office of State Budget Director, headed by the state budget director. The state budget director shall be appointed by the Governor pursuant to KRS 11.040 and shall serve, under direction of the Governor, as state budget director and secretary of the state planning committee. The office shall include such principal assistants and supporting personnel appointed pursuant to KRS Chapter 12 as may be necessary to carry out the functions of the office. The office shall have such duties, rights and responsibilities as are necessary to perform, without being limited to, the following functions:
 1. Functions relative to the preparation, administration, and evaluation of the executive budget as provided in KRS Chapters 45 and 48 and in other laws, including but not limited to, capital construction budgeting, evaluation of state programs, program monitoring, financial and policy analysis and issue review, and executive policy implementation and compliance;
 2. Continuous evaluation of statewide management and administrative procedures and practices, including but not limited to, organizational analysis and review, economic forecasting, technical assistance to state agencies, forms control, and special analytic studies as directed by the Governor; and
 3. Staff planning functions of the state planning committee and evaluation of statewide management and administrative practices and procedures.
 - (b) Governor's Office for Policy and Management, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out the functions of the office relating to state budgeting as provided in paragraph (a) of this subsection and state planning as provided in KRS Chapter 147, review of administrative regulations proposed by executive agencies prior to filing pursuant to KRS Chapter 13A and such other duties as may be assigned by the Governor.
 - (c) Governor's Office for *Policy Research headed by [Program Administration, which shall assist] the state budget director. The Governor's Office for Policy Research shall assist the state budget director in providing policy research data, information, and analysis to the Governor on public policy issues that impact the Commonwealth. The state budget director shall identify and direct the research to be completed and provided by the office. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office.* ~~carrying out his functions and duties pertaining to the coordination of activities of state government for their effective and efficient administration. The office shall be headed by an executive director appointed by the Governor pursuant to KRS 12.040. The executive director shall report to the Governor through the state budget director. The organization of the office shall be established by the executive director with the approval of the state budget director. Persons employed in the office shall be deemed to be employees of the Governor within the meaning of KRS Chapters 11, 12, and 18A.~~
 - (d) *Governor's Office for Economic Analysis headed by the state budget director who shall report to the Governor. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office. The Governor's Office for Economic Analysis shall carry out the revenue estimating and economic analysis functions and responsibilities, including but not limited to the functions and responsibilities assigned to the Office of State Budget Director by KRS 48.115, 48.117, 48.120, 48.400, and 48.600. The Governor's Office for Economic Analysis shall perform the tax administrative function of using tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information*

that will assist the Revenue Cabinet in performing its tax administrative functions.

Section 2. KRS 7B.080 is amended to read as follows:

- (1) The operation of the center shall be funded from the restricted agency fund established in subsection (3) of this section.
- (2) There is hereby established a fiduciary fund to be entitled the Kentucky Long-Term Policy Research Center fund. The fund may receive appropriations, gifts, grants, and federal funds. Moneys in the fund shall not lapse back to the General Fund at the end of any fiscal year. Moneys in the fund shall be invested by the Office of Financial Management~~and Economic Analysis~~, consistent with the provisions of KRS Chapter 42.
- (3) A restricted agency fund account is established to receive the interest on the fiduciary fund and any other resources made available to the center. Interest from the fiduciary fund shall be credited to the restricted agency fund account on a monthly basis for the center's operations. Moneys in the account shall be invested by the Office of Financial Management~~and Economic Analysis~~, consistent with the provisions of KRS Chapter 42.
- (4) Any appropriation by the General Assembly to the fiduciary fund shall remain intact and shall not be available to the board, and should the center and its functions terminate, the principal and any remaining interest from other accumulated funds shall revert to the general fund of the Commonwealth or to the donor.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.

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- (j) Kentucky State Corrections Commission.
- (k) Commission on Correction and Community Service.
- 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:

- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:
- (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management~~[and Economic Analysis]~~.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.

- (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.

- (g) Governor's Council on Vocational Education.
- (h) The State Board for Proprietary Education.
- (i) The Foundation for Adult Education.
- (j) The Kentucky Job Training Coordinating Council.
- (k) Office of General Counsel.
- (l) Office of Communication Services.
- (m) Office of Development and Industry Relations.
- (n) Office of Workforce Analysis and Research.
- (o) Office for Administrative Services.
- (p) Office for Policy and Budget.
- (q) Office of Personnel Services.
- (r) Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 4. KRS 42.014 is amended to read as follows:

- (1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Budget, the Office of Financial Management ~~and Economic Analysis~~, the Office of Capital Plaza Operations, and the Office of the Controller, each of which offices shall be headed by an executive director, the Department for Administration, the Department for Facilities Management, and the Department of Information Systems each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.
- (2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 5. KRS 42.0201 is amended to read as follows:

- (1) There is created within the Finance and Administration Cabinet the Office of the Controller. The office shall be attached to the Office of the Secretary of the Finance and Administration Cabinet for administrative and reporting purposes.
- (2) The Office of the Controller shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the

accounting community.

- (3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs; assignment and tracking of actual expenditures by code, and coverage issues relating to Social Security and Medicare.
- (4) The state controller; the executive director of the Office of Financial Management~~[and Economic Analysis]~~, Finance and Administration Cabinet; and the state budget director designated under KRS 11.068 shall develop and maintain the Commonwealth's strategic financial management program.
- (5) There are established in the Office of the Controller the Division of Accounts and the Division of Social Security.
 - (a) The Division of Accounts shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the state controller. The division shall perform financial record keeping functions at the state controller's direction, and shall be responsible for:
 1. The performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes; and
 2. The state government's duties and functions relating to the county fee system for local entities.
 - (b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the state controller. The division shall be responsible for the duties of the state agency for Social Security specified in KRS 61.410 to 61.500.

Section 6. KRS 42.400 is amended to read as follows:

- (1) There is established within the Finance and Administration Cabinet an Office of Financial Management~~[and Economic Analysis]~~, which shall be headed by an executive director responsible to the secretary of the Finance and Administration Cabinet, and appointed by the secretary upon approval of the Governor in accordance with the provisions of KRS 12.050.
- (2) There is included in the Office of Financial Management~~[and Economic Analysis]~~ the positions of deputy executive ~~directors~~~~[director]~~ for investment and debt management ~~who~~~~[, and deputy executive director for revenue estimating and economic analysis, which]~~ shall be employed in the classified service as set forth in KRS Chapter 18A.

Section 7. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

- (1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.
- (2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis~~[Finance and Administration Cabinet]~~ to generate final detailed revenue estimates.
- (3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.
- (4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.
- (5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.
- (6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.
- (7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the Revenue Cabinet.
- (8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.
- (9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.
- (10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

- (11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.
- (12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:
 - (a) Receipts credited to the general fund which are subject to KRS 24A.191, KRS 24A.192, KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;
 - (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and
 - (c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.
- (13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

Section 8. KRS 42.410 is amended to read as follows:

- (1) The Office of Financial Management~~[and Economic Analysis]~~ established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.375 and KRS 42.500, have and perform functions and duties as follows:
 - (a) The analysis and management of short and long-term cash flow requirements;
 - (b) The maximization of the return on state investments given the cash flow and liquidity requirements;
 - (c) The coordination and monitoring of cash needs relative to investment and debt activity;
 - (d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;
 - ~~(e) The evaluation of revenue projections relative to proposed revenue bond issues;~~
 - ~~(f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;~~
 - ~~(g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;~~
 - ~~(h) The tax administrative function of utilizing tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information that will assist the Revenue Cabinet in performing its tax administrative functions;~~ and
 - (i) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.
- (2) The Office of Financial Management~~[and Economic Analysis]~~ shall render monthly written reports concerning the performance of each investment to the State Investment Commission.
- (3) The Office of Financial Management~~[and Economic Analysis]~~ shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.
- (4) The Office of Financial Management~~[and Economic Analysis]~~ shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.
- (5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.
- (6) Economic indicators shall include:
 - (a) Nonappropriation-supported debt as a percent of state total personal income;
 - (b) Nonappropriation-supported debt as a percent of total assessed value of property;
 - (c) Nonappropriation-supported debt per capita;
 - (d) Appropriation-supported debt as a percent of state total personal income;
 - (e) Appropriation-supported debt as a percent of total assessed value of property;
 - (f) Appropriation-supported debt per capita;
 - (g) Appropriation-supported debt service as a percent of total state personal income;

- (h) Appropriation-supported debt service as a percent of total assessed value of property; and
- (i) Appropriation-supported debt service per capita.
- (7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.
- (8) Fiscal indicators shall include:
 - (a) Annual appropriation-supported debt service as a percent of total revenues; and
 - (b) Annual appropriation-supported debt service as a percent of available revenues.
- (9) Market indicators shall include:
 - (a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;
 - (b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;
 - (c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue; and
 - (d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue.
- (10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.
- (11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.
- (12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 9. KRS 42.420 is amended to read as follows:

All other provisions of the Kentucky Revised Statutes notwithstanding, all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, shall submit all proposed bond issues, bond anticipation notes, or interim debt financing to the Office of Financial Management~~[Economic Analysis]~~ for review and approval prior to issuance of such debt.

Section 10. KRS 42.560 is amended to read as follows:

- (1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."
- (2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.
- (3) The fund shall be managed by the state Office of Financial Management~~[and Economic Analysis]~~ and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.
- (4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars (\$50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for Families and Children with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 11. KRS 42.572 is amended to read as follows:

The State Office of Financial Management~~[and Economic Analysis]~~ shall prepare and submit to the Legislative Research Commission a report by July 30 of each year on the operational and financial status of the fund.

Section 12. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

- (1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;
- (2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;
- (3) "Bond issuing agency" means the State Property and Buildings Commission, Kentucky Asset/Liability Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, Eastern Kentucky University, the Kentucky Community and Technical College System for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System;
- (4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;
- (5) "Executive director" means the executive director of the Office of Financial Management~~and Economic Analysis~~;
- (6) "Office" means the Office of Financial Management~~and Economic Analysis~~ established by KRS 42.400;
- (7) "Underwriter" means:
 - (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or
 - (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;
- (8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 13. KRS 45A.843 is amended to read as follows:

- (1) One (1) or more selection committees shall be created in the Office of Financial Management~~and Economic Analysis~~. Each selection committee shall have the authority to participate in the selection of both underwriters and bond counsel.
- (2) Except as provided in KRS 45A.867 and 45A.870, a selection committee shall participate in every instance of a bond issuing agency hiring an underwriter or bond counsel on behalf of a bond issuing agency.
- (3) A selection committee created in the office shall consist of the following six (6) or more members selected in the manner specified within each paragraph:
 - (a) Three (3) employees of the office other than the executive director. The executive director shall select the three (3) employees;
 - (b) Two (2) employees of the bond issuing agency appointed by the head of that agency to participate in the hiring of an underwriter or a bond counsel for that agency. However, at the discretion of the head of the bond issuing agency, he may substitute for one (1) of his employees an employee of the agency whose project will be funded by the bond proceeds; and
 - (c) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor. The merit employees shall serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee shall attend all committee proceedings. If more than one (1) employee is appointed, then at least one (1) of the employees shall attend any committee proceeding.
- (4)
 - (a) All selection committee members shall have experience which qualifies them to serve on the committee.
 - (b) Any individual appointed to serve by the executive director or the Auditor of Public Accounts shall serve an initial one (1) year term and may be reappointed to serve for additional successive one (1) year terms. He shall serve until his successor is appointed and qualified. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.
 - (c) A selection committee member appointed by the head of a bond issuing agency shall serve for the duration of the selection committee's participation in the hiring of an underwriter and a bond counsel for his agency. A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

Section 14. KRS 48.115 is amended to read as follows:

- (1) Except as provided for in subsection (4) of this section, the detailed revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The consensus revenue forecast shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director~~secretary of the Finance and Administration Cabinet~~ and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial

conditions of the Commonwealth.

- (2) If, after the revenue estimates made as required under KRS 48.120, the state budget director~~[secretary of the Finance and Administration Cabinet]~~ determines that a revision to the revenue estimates is needed, the state budget director~~[secretary of the Finance and Administration Cabinet]~~ shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.
- (3) The state budget director~~[secretary of the Finance and Administration Cabinet]~~ shall coordinate with the Revenue Cabinet and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.
- (4) If the consensus forecasting group cannot agree on a consensus revenue forecast for the detailed revenue estimates required under KRS 48.120 or the revised revenue estimates as provided for under subsection (2) of this section, the official revenue estimates required by law shall be provided by the Governor's Office for Economic Analysis~~[Finance and Administration Cabinet]~~.

Section 15. KRS 48.117 is amended to read as follows:

- (1) On or before August 15 of 1999 and of each subsequent odd-numbered year, the Office of State Budget Director~~[Finance and Administration Cabinet]~~, in conjunction with the consensus forecasting group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:
 - (a) A baseline analysis and projections of economic conditions and outlook;
 - (b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and
 - (c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.
- (2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 16. KRS 48.120 is amended to read as follows:

- (1) By October 15 of each odd-numbered year, the Office of State Budget Director~~[Finance and Administration Cabinet]~~ shall provide to each branch of government the preliminary detailed revenue estimates made in accordance with the provisions of KRS 48.115 for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.
- (2) On or before the fifteenth legislative day, the Office of State Budget Director~~[Finance and Administration Cabinet]~~ shall certify and present to the General Assembly the final detailed revenue estimates made in accordance with the provisions of KRS 48.115 for these funds.
- (3) Appropriations made in the branch budget bills enacted for each branch of government shall be based upon the revenue estimates presented to the General Assembly by the Office of State Budget Director~~[Finance and Administration Cabinet]~~ under subsection (2) of this section, as modified by the appropriations committees of the General Assembly.

Section 17. KRS 48.130 is amended to read as follows:

- (1) The branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, if projected or actual tax receipts accruing to the general fund or road fund are five percent (5%) or less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120.
- (2)
 - (a) In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;
 - (b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;
 - (c) A layoff of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of KRS 18A.1132; and
 - (d) A layoff of state employees in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of KRS 18A.1132.
- (3) The plan shall be enacted as modified by the General Assembly in each branch budget bill.
- (4) Based upon the information provided in KRS 48.400 and in the event of an actual or projected deficit in tax receipts provided for by this section, the Office of State Budget Director~~[Finance and Administration Cabinet]~~ shall notify all branches of government:

- (a) If funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the branch budget bill, and the Governor, the Chief Justice, and the Legislative Research Commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the branch budget bill; and
 - (b) In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the branch budget bill shall not be implemented.
- (5) Based upon the information provided in KRS 48.400 and in the event of an actual or projected deficit in tax receipts of five percent (5%) or less, the Governor, the Chief Justice, and the Legislative Research Commission shall implement budget reductions for their respective branches consistent with the provisions of the enacted branch budget bills.
 - (6) The budget reduction plan shall provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any such reduction of the annual increment shall be uniform for all employees.
 - (7) If general fund or road fund tax receipts increase over the estimated deficits, then services shall be restored in the reverse order of the reduced services.
 - (8) This section shall not preclude the General Assembly, in regular or special session, from amending a branch budget bill requiring budget reductions nor shall it preclude the Governor from calling a special session of the General Assembly at any time the budget reduction plan is in effect.
 - (9) No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.

Section 18. KRS 48.400 is amended to read as follows:

- (1) The ***Office of State Budget Director***~~[Finance and Administration Cabinet]~~ shall continuously monitor the financial situation of the Commonwealth. Based upon reports from budget units and its own estimates, the ***office***~~[cabinet]~~ shall no later than the tenth day of each month or more often if necessary, report to the Governor, Chief Justice, and the Legislative Research Commission on the financial condition of the Commonwealth and its budget units.
- (2) Within thirty (30) days of the close of each fiscal quarter, the ***state budget director***~~[secretary of the Finance and Administration Cabinet]~~ shall report to the head of each branch budget the actual revenue receipts from the just-concluded quarter, as well as the projected revenue receipts for the next three (3) fiscal quarters. The report shall include a comparison with the estimated revenue receipts upon which the branch budget bills were developed pursuant to KRS 48.120 and shall note any potential consequences to the Commonwealth's fiscal condition as a result of actual or projected revenue receipts that differ from those used in the development of the branch budget bills.
- (3) In the event there is an actual or anticipated surplus or decrease in total estimated tax receipts, as determined under KRS 48.120(3) and subsection (2) of this section, immediate notification shall be given to all branches of government.

Section 19. KRS 48.600 is amended to read as follows:

- (1) In the event of an actual or projected deficit, as determined by the ***Office of State Budget Director***~~[Finance and Administration Cabinet]~~, in total tax receipts, as specified in KRS 48.130, of five percent (5%) or less, the Governor, the Chief Justice, and the Legislative Research Commission shall make any allotment reductions for the budget units of their respective branches of government that are deemed necessary and shall take any steps to revise allotments for their respective branches that are necessary to prevent a cash deficit.
- (2) No budget revision action shall be taken by any branch head in excess of the actual or projected deficit.
- (3) Allotment revisions shall be reported to the standing Appropriations and Revenue Committees of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate.

Section 20. KRS 48.705 is amended to read as follows:

- (1) A budget reserve trust fund account is hereby created in the general fund, pursuant to KRS 45.305. The budget reserve trust fund account shall be funded through direct appropriations, surplus revenue receipts in the general fund, and certain unexpended appropriations. Moneys in the account shall remain unallotted unless required by the provisions of this section.
- (2) (a) Beginning with the fiscal year starting on July 1, 1995, and for each fiscal year thereafter, except as provided in subsection (3) of this section, within thirty (30) days of the end of each fiscal year, the secretary of the Finance and Administration Cabinet shall cause to be deposited to the budget reserve trust fund account the lesser of the following amounts:
 - 1. Fifty percent (50%) of all general fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the ***state budget director***~~[secretary of the Finance and Administration Cabinet]~~ pursuant to KRS 48.400(3) for the year just ended; and fifty percent (50%) of the unexpended balance of all general fund appropriations for the fiscal year just ended that would otherwise lapse to the general fund surplus account under KRS 45.229; or

2. The amount necessary, from general fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the ~~state budget director~~~~[secretary of the Finance and Administration Cabinet]~~ pursuant to KRS 48.400(3) for the year just ended, and from the unexpended balance of all general fund appropriations for the fiscal year just ended that would otherwise lapse to the surplus account under KRS 45.229, to make the balance of the budget reserve trust fund account equal to five percent (5%) of the actual general fund revenue receipts collected during the fiscal year just ended, as determined by the Finance and Administration Cabinet.
- (b) Any amounts to be deposited to the budget reserve trust fund account from general fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3) or the amount subsequently certified by the ~~state budget director~~~~[secretary of the Finance and Administration Cabinet]~~ pursuant to KRS 48.400(3) shall be determined after the excess receipts have been reduced by the amount necessary to implement the provisions of any surplus expenditure plan authorized by KRS 48.140 and enacted as a part of a branch budget bill.
- (3) If, at the close of any fiscal year, the budget reserve trust fund account has a balance equal to or greater than five percent (5%) of the actual general fund revenue receipts collected during the fiscal year just ended, as determined by the Finance and Administration Cabinet, the deposits required under subsection (2) of this section shall be suspended for that year.
- (4) (a) Moneys in the budget reserve trust fund account may be appropriated by the General Assembly in a regular or special session.
- (b) Funds from the budget reserve trust fund account may be used pursuant to the provisions of KRS Chapter 47 if actual general fund revenue receipts are not sufficient to meet the general fund appropriation levels authorized by the General Assembly in the branch budget bills for the executive, legislative, and judicial branches, as determined under KRS 48.130 and 48.600, or an appropriation provision in any act.
- (5) Before authorizing any allotments from the budget reserve trust fund account, the secretary of the Finance and Administration Cabinet shall notify in writing the Interim Joint Committee on Appropriations and Revenue. The notice shall include the amount and purpose for the proposed allotment.
- (6) Within thirty (30) days of the close of each fiscal year, the secretary of the Finance and Administration Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue the general fund revenue receipts collected for the fiscal year just ended, the balance of the budget reserve trust fund account, and any amounts deposited to the budget reserve trust fund account pursuant to the provisions of subsection (2) of this section.
- (7) All sums appropriated or deposited to the budget reserve trust fund account shall not lapse at the close of the fiscal year but shall carry forward into the next fiscal year and shall remain available for the purposes of this section.

Section 21. KRS 56.862 is amended to read as follows:

The Office of Financial Management~~[and Economic Analysis]~~ shall serve as staff to the commission. The executive director of the Office of Financial Management~~[and Economic Analysis]~~ shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

Section 22. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

- (1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;
- (2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;
- (3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;
- (4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;
- (5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;
- (6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;
- (7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;
- (8) Designate individual employees or officers of the Office of Financial Management~~[and Economic Analysis]~~ as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial

agreements, for the commission;

- (9) Enter into financial agreements for the purpose of hedging a portfolio of interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;
- (10) Deposit net interest payments and premiums received by the commission under financial agreements relating to funding notes, project notes, and tax and revenue anticipation notes into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to tax and revenue anticipation notes, project notes, and funding notes; and
- (11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:
 - (a) A description of the Commonwealth's investment and debt structure;
 - (b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;
 - (c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and
 - (d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

Section 23. KRS 131.020 is amended to read as follows:

- (1) The Revenue Cabinet shall be organized into the following functional units:
 - (a) Office of the Secretary. The Office of the Secretary shall include the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services, principal assistants and other personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;
 - (b) Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;
 - (c) Office of Taxpayer Ombudsman. The Office of Taxpayer Ombudsman shall be headed by a taxpayer ombudsman as established by KRS 131.051(1). The functions and duties of the office shall consist of those established by KRS 131.071;
 - (d) Department of Law. The Department of Law shall be headed by a commissioner. The functions and duties of the department shall include establishing Revenue Cabinet tax policies, providing information to the public, conducting tax research, collecting delinquent taxes, conducting conferences, administering taxpayer protests, issuing final rulings, administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation, and representing the cabinet in legal and administrative actions. The Department of Law shall consist of the divisions of legal services, protest resolution, tax policy, collections, and research;
 - (e) Department of Property Valuation. The Department of Property Valuation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering tangible and intangible personal property taxes, and collecting delinquent taxes. The Department of Property Valuation shall consist of the Divisions of Local Valuation, State Valuation, and Technical Support;
 - (f) Department of Tax Administration. The Department of Tax Administration shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, conducting audits, reviewing audits, rendering taxpayer assistance, and collecting delinquent taxes. The Department of Tax Administration shall consist

of the Divisions of Field Operations, Revenue Operations, and Compliance and Taxpayer Assistance; and

- (g) Department of Information Technology. The Department of Information Technology shall be headed by a commissioner. The functions and duties of the department shall include the development and maintenance of technology and information management systems in support of all units of the cabinet. The Department of Information Technology shall consist of the Division of Systems Planning and Development and the Division of Technology Infrastructure Support.

- (2) The functions and duties of the cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the cabinet, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
- (3) Except as provided in KRS 131.190(4), the cabinet shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the ~~Governor's Finance and Administration Cabinet's~~ Office ~~for~~ ~~of Financial Management and~~ Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

Section 24. KRS 151.730 is amended to read as follows:

- (1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on such bonds shall in each instance be payable solely from a special fund provided for the payment, with revenues derived from water use fees collected from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in such special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.
- (2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.
- (3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.
- (4) The authority may issue revenue bond anticipation notes.
- (5) Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any

and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the authority or by any officer or employee thereof.

- (6) Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.
- (7) Revenue bonds issued by the authority shall be subject to the jurisdiction and approval of the State Property and Buildings Commission and the Capital Projects and Bond Oversight Committee and shall be subject to review by the Office of Financial Management~~and Economic Analysis~~.
- (8) The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality, or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues, or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.
- (9) Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services and necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds.

Section 25. KRS 153.180 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.
- (2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management~~and Economic Analysis~~ consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:
 - (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.
 - (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.
- (3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.
- (4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.
- (5) The foundation shall be attached to the office of the secretary for the Education, Arts, and Humanities Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.
- (6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 26. KRS 177.366 is amended to read as follows:

- (1) Except as provided in subsection (8) of this section, on and after July 1, 1980, the Finance and Administration Cabinet shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in

the incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here, means an area as defined in KRS 81.015, and any area outside of incorporated cities, which area has a population of 2,500 or more as shown by the most recent decennial census of the United States Bureau of the Census, and all populations shall be determined by the most recent decennial census of the United States.

- (2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the Municipal Aid Program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population of the newly incorporated area as it existed at the time of the last decennial census.
- (3) In the event the newly incorporated area cannot obtain a population count from the Bureau of the Census, it shall not be eligible to participate in the Municipal Aid Program until the next decennial census.
- (4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.
- (5) It shall be the responsibility of the incorporated city to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population for the annexed area as it existed at the time of the last decennial census.
- (6) If the incorporated area cannot obtain a population count from the Bureau of the Census, the annexed area's population shall not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas shall be eligible to receive work through this program.
- (7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Office of State Budget Director ~~[Finance and Administration Cabinet]~~ and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the Office of State Budget Director ~~[Finance and Administration Cabinet]~~.
- (8) Any local government eligible to receive municipal road aid moneys pursuant to KRS 177.365 to 177.369 shall be required to submit a uniform financial information report to the Department for Local Government pursuant to KRS 65.905 before any payment of municipal road aid funds shall be made. The Department for Local Government shall notify the Finance and Administration Cabinet no later than March 1 annually of any local government that has not submitted a uniform financial information report. The Finance and Administration Cabinet shall upon notification by the department, immediately suspend all municipal road aid moneys to the local government until the local government complies with the provisions of KRS 65.900 to 65.915 and submits the uniform financial information report to the Department for Local Government. The department shall immediately notify the Finance and Administration Cabinet to reinstate municipal road aid moneys to any local government affected by this subsection as soon as the local government submits the uniform financial information report.

Section 27. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;
- (2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:
 - (a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;
 - (b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;
 - (c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;
 - (d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and
 - (e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection

of farmland;

- (3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management~~and Economic Analysis~~;
- (4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;
- (5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;
- (6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;
- (7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;
- (8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;
- (9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;
- (10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;
- (11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;
- (12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;
- (13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;
- (14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;
- (15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;
- (16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978;
- (17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;
- (18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;
- (19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;
- (20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;
- (21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:
 - (a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;
 - (b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;
 - (c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of

return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

- (d) Any other investment authorized by law for the investment of funds of the Commonwealth;
- (22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;
- (23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;
- (24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;
- (25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;
- (26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;
- (27) To serve as the beneficiary of any public trust; and
- (28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 28. KRS 248.550 is amended to read as follows:

- (1) The amount of revenues collected and/or credited to the tobacco research-trust fund shall be appropriated each year to the University of Kentucky Tobacco and Health Research Institute to finance tobacco research projects and programs as provided in KRS 248.510 to 248.570 and shall be expended by the institute only on those projects and programs authorized by the Kentucky Tobacco Research Board.
- (2) The Office of State Budget Director ~~Finance and Administration Cabinet~~ shall supply revenue estimates of the amount of revenue anticipated to be collected during each fiscal year by the added one-half cent (\$0.005) tax on cigarettes which estimate, along with any federal funds available, shall be the basis for preparing tobacco research programs and budget requests for each fiscal year.

Section 29. KRS 342.1223 is amended to read as follows:

- (1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.
- (2) The commission shall:
 - (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;
 - (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;
 - (c) Report to the General Assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;
 - (d) Recommend to the General Assembly, not later than October 31 of the year prior to each regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;
 - (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each regular legislative session, a proposed budget for the biennium beginning July 1 following the regular session of the General Assembly;
 - (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

- (g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the Revenue Cabinet, of all entities subject to the assessments imposed in this chapter; and
 - (h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.
- (3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:
- (a) To sue and be sued, complain, or defend, in its name;
 - (b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;
 - (c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;
 - (d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;
 - (e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and
 - (f) To make and promulgate administrative regulations.
- (4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management~~and Economic Analysis~~, rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.
- (5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

Section 30. KRS 342.825 is amended to read as follows:

The board shall formulate and adopt an investment policy that safeguards the value of all assets and maximizes investment potential commensurate with risk and liquidity restrictions, and supervise the investment activities of the authority subject to the limitations on domestic insurance companies under KRS Chapter 304. Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the authority may utilize the investment expertise and advice of the Office of Financial Management~~and Economic Analysis~~ in the ~~Cabinet for~~ Finance and Administration Cabinet. The authority shall also retain an independent investment counsel or managers who shall be subject to standards applicable to fiduciaries responsible for safeguarding assets of a corporation.

Section 31. The General Assembly confirms Executive Order 99-1439, issued by the Governor on October 26, 1999, to the extent that it is not otherwise confirmed by this Act.

SB 24, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.

5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
4. Transportation Cabinet:

- (a) Department of Highways.
- (b) Department of Vehicle Regulation.
- (c) Department of Administrative Services.
- (d) Department of Fiscal Management.
- (e) Department of Rural and Municipal Aid.
- (f) Office of General Counsel.
- (g) Office of Public Affairs.
- (h) Office of Personnel Management.
- (i) Office of Minority Affairs.
- (j) Office of Environmental Affairs.
- (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
- 7. Cabinet for Families and Children:
 - (a) Department for ***Community Based Services***~~[Social Insurance]~~.
 - (b) Department for ***Disability Determination***~~[Social]~~ Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of ***Performance Enhancement***~~[Aging Services]~~.
- 8. Cabinet for Health Services.
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.

- (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.

- (c) Office of Financial and Administrative Services.
- (d) Department of Law.
- (e) Department of Information Technology.
- (f) Office of Taxpayer Ombudsman.
- 12. Tourism Development Cabinet:
 - (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
- 13. Cabinet for Workforce Development:
 - (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
- 14. Personnel Cabinet:
 - (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.
- III. Other departments headed by appointed officers:
 - 1. Department of Military Affairs.
 - 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
 - 3. Department for Local Government.

4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. Office of the Chief Information Officer.

Section 2. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
 - (a) Finance and Administration Cabinet
 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 - (b) Cabinet for Health Services
 1. Office of Certificate of Need
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 - (c) Cabinet for Families and Children
 1. Department for ~~Social~~ **Community Based** Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
 2. Department for ~~Social Insurance~~ **Disability Determination Services**
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
 - (d) Justice Cabinet
 1. Department of State Police
 - a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 2. Department of Corrections

- a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 - 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
 - (e) Labor Cabinet
 - 1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 - (f) Natural Resources and Environmental Protection Cabinet
 - 1. Department for Surface Mining Reclamation and Enforcement
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 - 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - (g) Kentucky Occupational Safety and Health Review Commission
 - 1. Occupational safety and health hearings conducted under authority of KRS Chapter 338
 - (h) Public Protection and Regulation Cabinet
 - 1. Board of Claims
 - a. Liability hearings conducted under authority of KRS Chapter 44
 - 2. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
 - (i) Cabinet for Workforce Development
 - 1. Department for Employment Services
 - a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
 - (j) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
 - (k) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation

Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 3. KRS 15.290 is amended to read as follows:

- (1) There is hereby established in the Department of Law the Child Support Enforcement Commission which shall consist of nine (9) members as prescribed below:
- (a) The Attorney General, or a designee, who shall also serve as chairman;
 - (b) The secretary of the Cabinet for Families and Children, or his designee, who shall also serve as vice chairman;
 - (c) The director of the Administrative Office of the Courts, or his designee;
 - (d) The director of the Division of Child Support ~~Enforcement~~ within the Cabinet for Families and Children; and
 - (e) The remaining five (5) members shall be appointed by the Governor for terms of four (4) years, except that the initial appointments shall be made in the following manner: One (1) member for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Each member shall serve until a successor is named and any appointment, due to vacancy, shall be for the unexpired term. The remaining five (5) members shall be appointed in the following manner: three (3) members from a list of nine (9) nominees submitted by the Kentucky County Attorney Association, with one (1) of the three members representing either a first class or urban-county government, and two (2) citizen-at-large members.
- (2) The secretary of the cabinet shall reimburse to the Department of Law such an amount as incurred related to the function of the commission. The secretary shall provide such information as may be requested by the commission.
- (3) The commission shall meet at least quarterly and may meet additional times as may be deemed necessary by the chairman.
- (4) Reimbursement for actual travel expenses shall be paid by the Department of Law for commission members, if members are not otherwise eligible for such reimbursement from their respective agency.
- (5) The commission shall have the following responsibilities:
- (a) Advise the Governor on any issue related to the child-support program;
 - (b) Advise the Cabinet for Families and Children on any issue related to the child-support program;
 - (c) Advise the Department of Law on any issue related to the child-support program;
 - (d) Advise the Administrative Office of the Courts on any issue related to the child-support program;
 - (e) Provide a regular forum for all parties involved in the child-support program to address any aspect of the administrative or judicial process;
 - (f) Develop and prepare reports and recommendations related to administrative procedures, prosecution, judicial procedures, state or federal legislation; or any other matters which might improve program effectiveness and efficiency; and
 - (g) Initiate recommendations to facilitate interaction between local officials and the cabinet.
- (6) The commission shall prepare and issue an annual report not later than August 15 of each year for the preceding fiscal year which includes a performance assessment for all aspects of the program. The report shall include recommendations to improve performance and service delivery. The report shall be submitted to the Governor and the Legislative Research Commission. The first report shall be due August 15, 1989.
- (7) Nothing in this section shall be construed as modifying the designation of the single state agency as required under the Federal Title IV-D plan.

Section 4. KRS 15A.300 is amended to read as follows:

- (1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.
- (2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Community Based ~~Social~~ Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.
- (3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:

- (a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for ~~Community Based~~~~(Social)~~ Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;
 - (b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;
 - (c) Sharing of information as authorized by law to carry out the interagency agreements;
 - (d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and
 - (e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.
- (4) Training of council members shall be the responsibility of the department.
 - (5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.
 - (6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:
 - (a) The formation of councils;
 - (b) The operation of councils;
 - (c) The duties of councils; and
 - (d) The administration and operation of the grant program.

Section 5. KRS 17.460 is amended to read as follows:

- (1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for ~~Community Based~~~~(Social)~~ Services of the Cabinet for Families and Children if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet which shall include information the Justice Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location, and known associates.
- (2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.
- (3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.
- (4)
 - (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.
 - (b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for ~~Community Based~~~~(Social)~~ Services of the Cabinet for Families and Children in the jurisdiction of the law enforcement agency.
 - (c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court-designated worker with jurisdiction for placement determination.
 - (d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.
- (5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 6. KRS 36.255 is amended to read as follows:

- (1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Department of Military Affairs.
- (2) The membership of the board shall consist of the following:
 - (a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;
 - (b) The commissioner of the Department for Public Health, or the commissioner's designee;

- (c) The commissioner of the Department of Education, or the commissioner's designee;
 - (d) The commissioner of the Kentucky State Police, or the commissioner's designee;
 - (e) The Kentucky state fire marshal, or the fire marshal's designee;
 - (f) The executive director of the Division of Disaster and Emergency Services, or the executive director's designee;
 - (g) The Attorney General, or the Attorney General's designee;
 - (h) One (1) representative of local community crisis response teams appointed by the Governor;
 - (i) Four (4) members appointed by the Governor to represent mental health disciplines;
 - (j) Two (2) members appointed by the Governor to represent emergency services disciplines;
 - (k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board;
 - (l) One (1) member, appointed by the Governor, from a state-wide chaplain's association involved in emergency services, who is trained in grief counseling and has experience in crisis response;
 - (m) One (1) member from the Kentucky Chapter of the American Red Cross; and
 - (n) The commissioner of the Department for Community Based~~(Social)~~ Services or the commissioner's designee.
- (3) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall be approved members of the existing community crisis response team.
- (4) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall have demonstrated a commitment to the provision of community crisis response services.
- (5) The members of the board appointed by the Governor shall serve for two (2) years and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.
- (6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.
- (7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.
- (8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 36.260, nothing in the provisions of KRS 36.250 to 36.270 shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

Section 7. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor, and the Superintendent of Public Instruction, the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.
- (2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	\$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education, arts, and humanities	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000

Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for <i>community based services</i> ~~[social insurance]~~	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 8. KRS 72.410 is amended to read as follows:

- (1) The coroner of each county shall investigate the cause and manner of all deaths that are defined by KRS 72.405 as a coroner's case.
- (2) The coroner may, in his sound discretion, when investigating a coroner's case, request the assistance of the district medical examiner and the Division of Kentucky State Medical Examiners Office, order an autopsy, and hold an inquest.
- (3)
 - (a) Upon notification of the death of a child under the age of eighteen (18) years which meets the criteria for a coroner's case as defined in KRS 72.405 and 72.025, the coroner shall as soon as practicable contact the local office of the Department for *Community Based*~~[Social]~~ Services, law enforcement agencies with local jurisdiction, and the local health department to determine the existence of relevant information concerning the case.
 - (b) Any agency of the state or any other agency, institution, or facility providing services to the child or the child's family, shall provide to the coroner upon his request the cooperation, assistance, and information to enable the coroner to comply with the provisions of this chapter. This section shall not be deemed to abrogate the attorney-client nor the clergy-penitent privilege or the confidentiality of records provided by KRS 311.377(2). If other privileged or confidential records are disclosed to the coroner pursuant to this section, the records shall remain confidential or privileged and shall not be disclosed except as authorized by this section, to the state or local child fatality response team, or as otherwise required by law.

Section 9. KRS 141.065 is amended to read as follows:

- (1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.
- (2) There shall be allowed as a credit for any taxpayer against the tax imposed by this chapter for any taxable year, an amount equal to one hundred dollars (\$100) for each person hired by the taxpayer, if that person has been classified as unemployed by the Department for *Community Based Services*~~[Social Insurance]~~ of the Cabinet for Families and Children, and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and if further that person has remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit.

- (3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:
- (a) A person for whom the taxpayer receives federally funded payments for on-the-job training;
 - (b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of Section 267(c) of the code;
 - (c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of Section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or
 - (d) To any person who is a dependent of the taxpayer as described in code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.
- (4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to that term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.
- (5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year.
- (6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.
- (7) In the case of an electing small business corporation, the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of the corporation on the last day of the taxable year, and any person to whom an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.
- (8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.
- (9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

Section 10. KRS 157.317 is amended to read as follows:

- (1) The Kentucky Board of Education through administrative regulations shall develop and implement a statewide Early Childhood Education Program which shall include basic principles of child development, early childhood education, and all other related concepts which deal with generally accepted early childhood programs, including the delivery of health and social services to children as needed.
- (2) (a) The Kentucky Early Childhood Advisory Council is created to advise the chief state school officer on the implementation of early childhood education programs. The Department of Education shall provide staff and administrative support for the council.
- (b) The Kentucky Early Childhood Advisory Council shall consist of one (1) member of the Kentucky Board of Education appointed by the chairman and sixteen (16) members appointed by the Governor. The sixteen (16) appointed members shall include two (2) representatives from the Department for Community Based Services and one (1) representative from each of the following agencies or groups: preschool teachers, public school teachers, elementary school principals, parents, child-care providers, community education, the Interagency Task Force on Family Resource Centers and Youth Services Centers, the Head Start Association, the Head Start director, the Head Start Program, the Infant/Toddler Coordinating Council, the Department for Public Health, ~~the Department for Social Services, the Department for Social Insurance,~~ the colleges of education, and the colleges of home economics.
- (c) Members shall serve a four (4) year term, except initial appointments shall be set so that four (4) members shall serve one (1) year, four (4) members shall serve two (2) years, four (4) members shall serve three (3) years, and four (4) members shall serve four (4) years.

Section 11. KRS 158.442 is amended to read as follows:

- (1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety

programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

- (2) To fulfill its mission, the Center for School Safety shall:
 - (a) Establish a clearinghouse for information and materials concerning school violence prevention;
 - (b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;
 - (c) Analyze the data collected in compliance with KRS 158.444;
 - (d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;
 - (e) Administer a school safety grant program for local districts as directed by the General Assembly;
 - (f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;
 - (g) Prepare and disseminate information regarding best practices in creating safe and effective schools;
 - (h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and
 - (i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.
- (3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:
 - (a) The commissioner or a designee of the Department of Education;
 - (b) The commissioner or a designee of the Department of Juvenile Justice;
 - (c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner or a designee of the Department for Community Based ~~Social~~ Services;
 - (e) The secretary or a designee of the Education, Arts, and Humanities Cabinet;
 - (f) A juvenile court judge;
 - (g) A local school district board of education member;
 - (h) A local school administrator;
 - (i) A school council parent representative;
 - (j) A teacher;
 - (k) A classified school employee; and
 - (l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

Section 12. KRS 194B.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. The Office of the Secretary for Families and Children may, in addition to the secretary for families and children, include other personnel as are necessary to direct and carry out the missions and goals of the cabinet, including a deputy secretary if deemed necessary by the secretary of the cabinet and upon approval of the Governor.
- (2) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
- (3) Office of Program Support. The Office of Program Support shall be responsible for providing administrative and management support, planning, and appraisal of need services within the Cabinet for Families and Children. All personnel, fiscal, budgetary, legislative ~~contract monitoring, quality assurance, quality control, outcome assessment~~, and

facility management functions of the cabinet shall be vested in the Office of Program Support. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the Office of Program Support under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

- (4) ~~Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.~~
- (5) ~~Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner is under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.~~
- (6) Office of Family Resource and Youth Services Centers. The Office of Family Resources and Youth Services Centers shall be responsible for the administration, management, and operations of the Family Resources and Youth Services Centers Program. The Office of Family Resources and Youth Services Centers shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
- (5)(7) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including, but not limited to, a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies; contract monitoring; and professional development and training. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
- (6)(8) Office of Technology Services. The Office of Technology Services shall develop and maintain technology and information management systems in support of all units of the cabinet. The Office of Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director for technology services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director for technology services shall exercise authority of the Office of Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.
- (7)(9) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended by 42 U.S.C. sec. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers.
- (8) Office of Performance Enhancement. The Office of Performance Enhancement shall be responsible for quality assurance and performance measurement programs, including contract monitoring, program monitoring, and the development of outcome-based contracts. The Office of Performance Enhancement shall focus on research, best practice, and program accountability, shall monitor federal compliance, and shall provide training for temporary assistance for needy families, food stamps, social services, and medical assistance programs. The Office of Performance Enhancement shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (9) Department for Community Based Services. The Department for Community Based Services shall administer an array of services including child and adult protection, permanency, child care, social services, public assistance, family and child support, and services to enhance family self-sufficiency. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (10) Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, including having responsibility for

determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

Section 13. KRS 194B.090 is amended to read as follows:

The cabinet shall include a citizens~~[citizen]~~ advisory body~~[bodies]~~ within its structure to provide independent advice from the general public.~~[The citizen bodies within the cabinet shall have the following structure: (1)]~~ A Council for Families and Children is created within the cabinet.

~~(1)(a)~~ The council shall advise the secretary for families and children, the commissioner for community based~~[social insurance, the commissioner for social]~~ services, and other officials of the Commonwealth on policy matters relating to the human service needs.

~~(2)(b)~~ The council shall be composed of no more than twenty-one (21) citizen members appointed by the Governor. Members of the council shall be chosen to broadly represent public interest groups concerned with social insurance and social service programs operated by the Commonwealth, professionals involved in the delivery of human services, minority groups, the poor, the disadvantaged, recipients of human services provided by the state, and the general public. The Governor shall appoint the chair of the council. The secretary for families and children and~~[,]~~ the commissioner for community based~~[social insurance, and the commissioner for social]~~ services shall be nonvoting, ex officio members of the council, and the commissioner for community based~~[commissioners for social insurance and social]~~ services shall be staff director~~[directors]~~ for, and secretary~~[secretaries]~~ to, the council. The council shall meet at least quarterly and on other occasions as may be necessary, on call of the secretary for families and children. A majority of appointed members shall constitute a quorum.

~~(3)(2)~~ An Institute for Aging is created within the cabinet.

- (a) The institute shall advise the secretary for families and children and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.
- (b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for families and children shall be a nonvoting, ex officio member of, staff director for, and secretary to the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for families and children. A majority of the appointed members shall constitute a quorum.

Section 14. KRS 194B.102 is amended to read as follows:

- (1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based~~[Social]~~ Services. The committee shall be composed of the following:
 - (a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for Families and Children or the secretary's designee~~[commissioner of the Department for Social Services]~~, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services~~[Social Insurance]~~, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and
 - (b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.
- (2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.
- (3) The strategic plan shall, at a minimum, include:
 - (a) A mission statement;
 - (b) Measurable goals;
 - (c) Principles;

- (d) Strategies and objectives; and
 - (e) Benchmarks.
- (4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.
 - (5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.
 - (6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.
 - (7) As a part of the statewide strategic plan, and in consultation with the Kentucky Information Resources Management Commission, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:
 - (a) Number of placements per child;
 - (b) Reasons for placement disruptions;
 - (c) Length of time between removal and establishment of permanency;
 - (d) Reabuse or reoffense rates;
 - (e) Fatality rates;
 - (f) Injury and hospitalization rates;
 - (g) Health care provision rates;
 - (h) Educational achievement rates;
 - (i) Multiple placement rates;
 - (j) Sibling placement rates;
 - (k) Ethnicity matching rates;
 - (l) Family maintenance and preservation rate; and
 - (m) Adoption disruption rates.
 - (8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 15. KRS 194B.530 is amended to read as follows:

- (1) The secretary for families and children shall develop an initial training course and continuing education courses for employees of the Department for ~~Community Based Social~~ Services concerning the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.
- (2) Each person employed by the Department for ~~Community Based Social~~ Services who provides supervisory or direct service at the local, district, or state level shall successfully complete the initial training course and, at least once every two (2) years, the continuing education course developed under subsection (1) of this section.

Section 16. KRS 196.081 is amended to read as follows:

- (1) To facilitate the need for comprehensive planning for the Department of Corrections and for related matters the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of twelve (12) members as follows:
 - (a) The Attorney General;

- (b) The secretary of the Justice Cabinet;
 - (c) The commissioner of the Department of Corrections;
 - (d) The chairman of the Parole Board;
 - (e) The secretary of the Cabinet for Families and Children;
 - (f) A county jailer chosen by the Governor;
 - (g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;
 - (h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;
 - (i) A representative from a law enforcement agency, appointed by the Governor;
 - (j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and
 - (k) The state Public Advocate.
- (2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.
 - (3) The Governor shall appoint a chairman of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.
 - (4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairman. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.
 - (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.
 - (6) The commission shall:
 - (a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;
 - (b) Develop a six (6) year plan for Department of Corrections operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;
 - (c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;
 - (d) Assist the Department of Corrections in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;
 - (e) Review and make recommendations to the General Assembly concerning legislative proposals, including Department of Corrections budget proposals, to insure consistency with the six (6) year plan;
 - (f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;
 - (g) Receive regular reports from the Department of Corrections, on a schedule established by the commission, as to the department's progress in complying with the six (6) year plan;
 - (h) Review and make recommendations to the department on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;
 - (i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;
 - (j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation, and parole;
 - (k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department for Community Based ~~Social~~ Services of the Cabinet for Families and Children, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning

the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation; and

- (l) Administer the provisions of KRS 196.700 to 196.735.
- (7) The six (6) year plan shall consist of at least the following elements:
 - (a) The location, capacity, classification, and staffing of each penal institution and program administered by the Department of Corrections;
 - (b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;
 - (c) The administrative structure of the Department of Corrections;
 - (d) Prison population projections for the six (6) year plan period;
 - (e) Education, rehabilitation, and prison industries programs administered by the Department of Corrections;
 - (f) The inmate labor program administered by the department; and
 - (g) Contingency plans to deal with unexpected increases in prison population.
- (8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.

Section 17. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary for families and children;
- (2) "Cabinet" means the Cabinet for Families and Children;
- (3) "Department" means the Department for Community Based~~[Social]~~ Services;
- (4) "Child" means any person who has not reached his eighteenth birthday;
- (5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;
- (6) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;
- (7) "Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;
- (8) "Adoption worker" means an employee of the cabinet so designated by the secretary for families and children, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;
- (9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;
- (10) "Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;
- (11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;
- (12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;
- (13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption; and

- (14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. In the event the person was not represented by independent legal counsel, the consent shall be in writing, signed and sworn to by the consenting person and include the following:
- (a) Date, time, and place of the execution of the consent;
 - (b) Name of the child, if any, to be adopted and the date and place of the child's birth;
 - (c) Consenting person's relationship to the child;
 - (d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;
 - (e) A statement that the consenting person understands that the consent will be final and irrevocable twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required;
 - (f) Disposition of the child if the adoption is not adjudged;
 - (g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;
 - (h) A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;
 - (i) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and
 - (j) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 18. KRS 199.461 is amended to read as follows:

- (1) As used in this section, "~~social~~~~[family]~~ service worker" means a social worker employed by the Cabinet for Families and Children, Department for Community Based~~(Social)~~ Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.
- (2) As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.
- (3) The monthly statewide caseload average for ~~social~~~~[family]~~ service workers in the area of foster care, child protection, juvenile services, or adult protection shall not exceed twenty-five (25) active cases.
- (4) Nothing in this section shall prevent the department or a ~~social~~~~[family]~~ service worker from handling emergencies to carry out statutory mandates. If the monthly statewide caseload average for ~~social~~~~[family]~~ service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report the fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. The report shall include, by county and district, ~~social~~~~[family]~~ service worker caseload averages; the number of established ~~social~~~~[family]~~ service worker positions; and the number of vacant ~~social~~~~[family]~~ service worker positions.

Section 19. KRS 199.565 is amended to read as follows:

- (1) The Department for Community Based~~(Social)~~ Services shall develop a written protocol for statewide swift adoption procedures to decrease the length of time necessary to complete the adoption process for children who are committed to the cabinet. The protocol shall establish outcome measures for the adoption process, and identify all state, local, and federal agencies, and other entities required to provide services in the adoption process.
- (2) The department shall develop swift adoption teams to expedite the adoption process for children who are committed to the cabinet. Swift adoption teams shall include department personnel representing the state, district, and local levels. The swift adoption teams shall operate under the protocol developed pursuant to subsection (1) of this section. Case referrals to swift adoption teams shall be accepted from social services offices from across the state.
- (3) The department shall issue a quarterly report which shall provide the status of the teams' goals and objectives and identify all adoption proceedings in which the teams have participated during the three (3) month period examined in the quarterly report. The report shall include:
 - (a) The number and location of all committed children placed for adoption;
 - (b) All options made available to those populations;

- (c) The experience and activity for each case;
 - (d) The successful adoptions and locations;
 - (e) The status of all cases in which the teams have participated;
 - (f) The identity of all agencies involved in the adoption process;
 - (g) An evaluation of the team efforts for the quarter; and
 - (h) A report of initiatives for the swift adoption process for the upcoming quarter.
- (4) The quarterly report shall also include recommendations for changes in statutes, administrative regulations, and policies that would enable the department to further improve the timeliness of adoption placements. The report shall be provided to the Governor, the Legislative Research Commission, and the Chief Justice of the Kentucky Supreme Court.

Section 20. KRS 199.5954 is amended to read as follows:

- (1) A child with special needs residing in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive medical assistance from this state upon the filing in the Department for **Community Based Services**~~[Social Insurance]~~, Cabinet for Families and Children, a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the Department for Medicaid Services, Cabinet for Health Services, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.
- (2) The Department for Medicaid Services, Cabinet for Health Services shall consider recipients of medical assistance pursuant to this section as any other recipient of medical assistance under the laws of this state and shall process and make payment on claims on account of the recipient in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.
- (3) The Department for Medicaid Services, Cabinet for Health Services shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department for **Community Based**~~[Social]~~ Services, Cabinet for Families and Children for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for Families and Children shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, the regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.
- (4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars (\$10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.
- (5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

Section 21. KRS 199.641 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires:
 - (a) "Allowable costs" means all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "cost principles for nonprofit organizations," utilizing cost data from the child-caring facility's most recent yearly audited financial statement;
 - (b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility; and
 - (c) "Department" means the Department for **Community Based**~~[Social]~~ Services of the Cabinet for Families and Children.
- (2) When the Department for **Community Based**~~[Social]~~ Services chooses to place a child in a nonprofit child-caring facility, the department shall reimburse that facility the allowable cost of the child's care, subject to the limitation set forth in subsection (3) of this section.
- (3) When the Department for **Community Based**~~[Social]~~ Services chooses to place a child in a nonprofit child-caring facility, the rate of reimbursement for the child's care shall not exceed seventy-five percent (75%) of the average cost in the most

comparable residential facility operated by the department. The rate shall be based on actual total facility occupancy for the most recent audited year or ninety percent (90%) of the facility capacity for the audited year, whichever is greater.

- (4) The secretary shall, to the extent funds are appropriated, implement the reimbursement methodology set forth in this section, or may promulgate administrative regulations in accordance with KRS Chapter 13A to establish the rate of reimbursement for child-caring facilities which are consistent with the level of service provided. If funds are insufficient in any given fiscal year to fully fund this provision, rates shall be adjusted by determining the reimbursement schedule and adjusting by the ratio of available funds to estimated full cost.

Section 22. KRS 199.680 is amended to read as follows:

- (1) The Department for Community Based~~[Social]~~ Services and the Department for Medicaid Services shall not reimburse an out-of-state provider of residential care for children whose care is paid by state general funds or state administered federal funds unless the Department for Medicaid Services or the Department for Community Based~~[Social]~~ Services or a designated agent thereof has determined that there is no provider within the Commonwealth that is capable and willing to provide comparable services at a comparable cost per child to those that would be delivered by the out-of-state provider. An exception may be made if:
 - (a) The identified in-state resource is farther away from the child's parent or guardian than a similar out-of-state resource; or
 - (b) The services offered by the out-of-state resource is deemed by either department or a designated agent thereof to be more appropriate for the individual child than the services offered by the in-state provider.
- (2) Prior to promulgating administrative regulations governing the determination of the availability of providers of residential care within the Commonwealth, the Department for Medicaid Services and the Department for Community Based~~[Social]~~ Services shall establish uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth.
- (3) Each department shall promulgate an administrative regulation in accordance with KRS Chapter 13A that contains the uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth established under subsection (2) of this section.

Section 23. KRS 199.800 is amended to read as follows:

For the purposes of KRS 199.800 to 199.805:

- (1) "Department" means the Department for Community Based~~[Social]~~ Services;
- (2) "Home county" means the county in which the child's natural parents, adoptive parents, or guardian reside. If the parents are divorced, the home county is the county of residence of the parent with legal custody. If the child is committed, the home county is the county of original commitment or case responsibility;
- (3) "Home district" means the Department for Community Based~~[Social]~~ Services district in which the child's home county is located;
- (4) "Type of placement" means the living arrangement, including family foster care, private child care, or other residential alternative that is deemed appropriate for a child as determined by the district placement coordinator and the social service~~[family services]~~ worker with case responsibility; and
- (5) "Unmet need" means the type of facility or placement needed to serve the child's needs which is unavailable at the time placement is being sought for the child.

Section 24. KRS 199.8982 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Cabinet" means the Cabinet for Families and Children;
 - (b) "Department" means the Department for Community Based~~[Social]~~ Services; and
 - (c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.
- (2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:
 1. Submit two (2) written character references;
 2. Provide a written statement from a physician that the applicant is in good health;
 3. Submit to a criminal record check as provided by KRS 17.165;

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4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
 5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and
 6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
 - a. Basic health, safety, and sanitation;
 - b. Recognizing and reporting child abuse; and
 - c. Developmentally appropriate child-care practice.
- (b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar (\$10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars (\$10).
- (c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.
- (d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.
- (e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.
- (f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home; provided, however, any administrative regulations promulgated in accordance with KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:
1. Certification requirements and procedures;
 2. Information about available child-care training; and
 3. Child-care food sponsoring organizations.
- (3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.
- (4) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.
- Section 25. KRS 199.8984 is amended to read as follows:
- (1) The Child-Care Policy Council is created within the Cabinet for Families and Children. The council shall:
- (a) Promote coordination and communication among state agencies responsible for child-care and early childhood education services;
 - (b) Serve as an advisor for state agencies responsible for child-care programs;
 - (c) Review state child-care programs and make recommendations to state agencies and the General Assembly related to program implementation, access to child care, the supply of child care, and coordination of child-care and other early childhood programs;

- (d) Review and make recommendations on administrative regulations relating to child-care programs and services;
 - (e) Advise the cabinet on application requirements and distribution of contracts to local child-care resource and referral agencies; and
 - (f) Submit biennially to the Legislative Research Commission by October 1 in each odd-numbered year a report on the status of child care.
- (2) The council shall be composed of seventeen (17) citizen members appointed by the Governor and shall include one (1) member of the House of Representatives appointed by the Speaker of the House and one (1) member of the Senate appointed by the Senate President. Members of the council shall serve for a term of four (4) years and until their successors are appointed and qualified; they shall be chosen to broadly represent public interest groups concerned with child-care services, professionals involved in the delivery of child-care services, nonprofit child-care providers, for-profit child-care providers, family child-care providers, employers, labor, resource and referral programs, parents, and the general public. The Governor shall appoint the chairman of the council, who shall also serve as one of the voting members of the council. The secretary for families and children ~~and~~ the commissioner for community based ~~social insurance, and the commissioner for social~~ services shall be nonvoting, ex officio members of the council. The commissioner for community based ~~social~~ services shall be staff director for, and shall provide staff to, the council. The council shall meet at least quarterly and on other occasions as may be necessary. A majority of the appointed members shall constitute a quorum.

Section 26. KRS 200.503 is amended to read as follows:

As used in KRS 200.501 to 200.509, unless the context otherwise requires:

- (1) "Child with an emotional disability" means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and seriously limits a child's capacity to function in the home, school, or community.
- (2) "Child with a severe emotional disability" means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and that:
 - (a) Presents substantial limitations that have persisted for at least one (1) year or are judged by a mental health professional to be at high risk of continuing for one (1) year without professional intervention in at least two (2) of the following five (5) areas: "Self-care," defined as the ability to provide, sustain, and protect his or herself at a level appropriate to his or her age; "Interpersonal relationships," defined as the ability to build and maintain satisfactory relationships with peers and adults; "Family life," defined as the capacity to live in a family or family type environment; "Self-direction," defined as the child's ability to control his or her behavior and to make decisions in a manner appropriate to his or her age; and "Education," defined as the ability to learn social and intellectual skills from teachers in available educational settings; or
 - (b) Is a Kentucky resident and is receiving residential treatment for emotional disability through the interstate compact; or
 - (c) The Department for Community Based ~~Social~~ Services has removed the child from the child's home and has been unable to maintain the child in a stable setting due to behavioral or emotional disturbance; or
 - (d) Is a person under twenty-one (21) years of age meeting the criteria of paragraph (a) of this subsection and who was receiving services prior to age eighteen (18) that must be continued for therapeutic benefit.
- (3) "State Family Advisory Council" means the council composed of all parent members or alternate parent members of the state, regional, and local interagency councils for services to children with an emotional disability pursuant to KRS 200.505 and 200.509 and all parent members of regional policy councils.
- (4) "Least restrictive alternative mode of treatment" means treatment given in the least confining setting which will provide a child with an emotional disability or severe emotional disability appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement.

Section 27. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

- (1) This council shall be composed of the following:
 - (a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Community Based ~~Social~~ Services, the commissioner of the Department for Public Health, the commissioner of the Department ~~for~~ for Medicaid Services, the commissioner of the Department of Juvenile Justice, and the executive director of the Administrative Offices of the Courts, or their designees; and

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- (b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.
- (2) The State Interagency Council for Services to Children with an Emotional Disability shall:
- (a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;
 - (b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;
 - (c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child;
 - (d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;
 - (e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;
 - (f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;
 - (g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;
 - (h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; ~~and~~
 - (i) Develop services to meet the needs of children with an emotional disability; **and**
 - (j) **Promote services to prevent the emotional disability of a child.**
- (3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.
- Section 28. KRS 200.509 is amended to read as follows:
- (1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the **service region administrator** ~~district supervisor~~ of the Department for **Community Based** ~~Social~~ Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:
- (a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;
 - (b) One (1) court, designated worker chosen by the Chief Regional District Judge within the region;
 - (c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;
 - (d) One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent

member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment;~~and~~

- (e) Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council; ***and***

(f) Representatives from the Department of Juvenile Justice and local health departments.

- (2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.
- (3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:
 - (a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;
 - (b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;
 - (c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;
 - (d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;
 - (e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;
 - (f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;
 - (g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;
 - (h) Implement the uniform grievance procedure established by the state interagency council;
 - (i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child;~~and~~
 - (j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery; ***and***

(k) Promote services to prevent the emotional disability of a child.

- (4) The secretary for families and children and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.
- (5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 29. KRS 200.585 is amended to read as follows:

- (1) The Department for ***Community Based***~~(Social)~~ Services shall be the lead administrative agency for family preservation services and may receive funding for the implementation of these services. The Department for ***Community Based***~~(Social)~~ Services shall:
 - (a) Provide the coordination of and planning for the implementation of family preservation services;
 - (b) Provide standards for family preservation services programs;
 - (c) Monitor these services to ensure they meet measurable standards of performance as set forth in state law and as developed by the Department for ***Community Based***~~(Social)~~ Services; and
 - (d) Provide the initial training and approve any ongoing training required by providers of family preservation services.
- (2) The Department for ***Community Based***~~(Social)~~ Services may provide family preservation services directly or may contract with a private, nonprofit social service agency to provide these services. In the event the department provides family preservation services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker/case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family preservation services caseworkers and cases shall be included in the report as a separate category.
- (3) In the event a nonprofit social service agency is contracted by the Department for ***Community Based***~~(Social)~~ Services, to

provide family preservation services, the contract shall include:

- (a) Requirements for provider acceptance of any client referred by the Cabinet for Families and Children for family preservation services;
- (b) Limitation of caseload to four (4) or fewer families per caseworker;
- (c) Provision of twenty-four (24) hour crisis intervention services to families served by the program;
- (d) Provision for training of family preservation services staff to meet the following minimum standards:
 - 1. Intensive training of not less than forty (40) hours to any therapist before family preservation services clients are assigned. This training is to be provided by individuals with recognized expertise regarding family preservation services and is to concern itself with the required knowledge skills, and techniques for success within the family preservation services model;
 - 2. A plan for the continuing education of staff therapists after the initial forty (40) hours;
 - 3. Training of not less than twenty (20) hours for a paraprofessional family aide before provision of services without the direct supervision of a family preservation services caseworker;
- (e) Provide for and conduct internal program evaluation and cooperate with external evaluation as directed by the Department for Community Based~~Social~~ Services;
- (4) To qualify for continued funding under subsection (3) of this section, an agency contracting to provide family preservation services shall demonstrate an annual success rate of seventy-five percent (75%) in avoiding out-of-home placement six (6) months after the cessation of family preservation services.

Section 30. KRS 200.658 is amended to read as follows:

- (1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Cabinet for Health Services. Pursuant to federal law and regulations, the membership shall be as follows:
 - (a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;
 - (b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;
 - (c) At least one (1) member shall be a member of the Kentucky General Assembly;
 - (d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;
 - (e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;
 - (f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;
 - (g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;
 - (h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based~~Social~~ Services;
 - (i) At least one (1) member shall be the commissioner or designee of the Department of Education;
 - (j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and
 - (k) At least one (1) member shall be a representative of the Commission for Handicapped Children.
- (2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:
 - (a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;
 - (b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;
 - (c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;
 - (d) Resolution of disputes, to the extent deemed appropriate by the cabinet;
 - (e) Provision of appropriate services for children from birth to five (5) years of age;

- (f) Identify sources of fiscal and other support services for early intervention programs;
 - (g) Preparing applications to Part H of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications; and
 - (h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education.
- (3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.
 - (4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 31. KRS 200.662 is amended to read as follows:

The cabinet shall establish one (1) district early intervention committee in each of the fifteen (15) area development districts. Each committee shall have from fifteen (15) to twenty-five (25) members of whom at least five (5) shall be parents, at least five (5) shall be early intervention service providers, and at least one (1) shall be a representative from each of the following: the local health department, the local office of the Department for ~~Community Based~~ Social Services, the local community mental health and mental retardation center, and the local Commission for Handicapped Children. Each committee may include representatives from one (1) or more of the following: a child day-care facility, a public school, a provider of medical services, a provider of therapy services, a home health agency if operated separately from the local health department, a university or college, a family resource center, a local business, a local charity, or others deemed appropriate. Each committee shall:

- (1) Advise and assist the cabinet and the council in the development, implementation, and monitoring of the Kentucky Early Intervention System;
- (2) Identify local resources available to infants and toddlers with disabilities and their families;
- (3) Assist in identifying the unmet needs of infants and toddlers with disabilities and their families;
- (4) Assist in establishing and maintaining a point of entry to the early intervention system; and
- (5) Assist in the establishment of local interagency agreements for early intervention services and provide a forum for coordinating district early intervention services.

Section 32. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

- (1) "Council" means the Advisory Council for Medical Assistance;
- (2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;
- (3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;
- (4) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;
- (5) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;
- (6) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;
- (7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;
- (8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;
- (9) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;
- (10) "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;
- (11) "Public assistance recipient" means a person who has been certified by the Department for Community Based

~~Services~~[Social Insurance] of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

- (12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;
- (13) "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient;
- (14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.

Section 33. KRS 205.6318 is amended to read as follows:

The Cabinet for Health Services shall review the available technology associated with the medical assistance system to determine which technology is best suited to enhance program service operation, monitoring ability, and fraud and abuse detection. This shall include the ability to provide on-line access to data files to allow cross-analysis of provider and recipient utilization patterns. The cabinet shall by promulgation of administrative regulations, pursuant to KRS Chapter 13A, establish an integrated system to enhance program integrity, using a combination of staff, computer technology, and contractual services to identify potential fraud, abuse, and misutilization of services. This system shall:

- (1) Utilize statisticians, program specialists, accountants, nurses, and other medical specialists to review the Medical Assistance Program to identify patterns of provider and recipient behavior that contributes to unnecessary or abusive use of program services;
- (2) Utilize computer capability through contractual services or the purchase of computer software to detect the unbundling of claims and other techniques used by providers to enhance reimbursement;
- (3) Impose utilization controls on the expenditures in respiratory, physical, speech, and occupational therapy and durable medical equipment provided to nursing-home residents, through the use of established medical criteria or preauthorization of ancillary therapies;
- (4) Establish state audit and edit requirements that exceed the federal audit and edit requirements;
- (5) Obtain access to necessary data from the fiscal agent of each medical provider;
- (6) Review the efficiency and effectiveness of the fraud and abuse detection and investigation process to determine whether changes shall be made;
- (7) Direct that fraud and abuse detection and investigation components shall be active in initiating investigations. The fraud and abuse detection, investigation, and prosecution functions shall be integrated, with access to information in files maintained by the Department for Community Based Services~~[Social Insurance]~~ and the Department for Medicaid Services;
- (8) Review penalties for deterrent value for medical providers that are found to have abused Medicaid regulations and statutes; and
- (9) Provide for a proactive effort to reduce costs for institutionalized program participants. Program officials shall seek to implement innovative or experimental demonstration programs that aim to control costs.

Section 34. KRS 205.6336 is amended to read as follows:

- (1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for Health Services, shall on a quarterly basis, certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from the procedures required by KRS 205.6310 to 205.6332 and any other procedures adopted by the Cabinet for Health Services or the Kentucky Health Policy Board to control the cost of health care.
- (2) The certification shall indicate the following:
 - (a) The means by which savings were achieved, including a description of the discrete procedure used to achieve the savings; and
 - (b) The amount saved as a result of the specific procedure, including an explanation as to the calculations and assumptions used in determining the amount.
- (3) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for Health Services to provide health-care coverage for additional categories of citizens, but the funds in the trust account shall not be spent until appropriated by the General Assembly. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.
- (4) Savings in the general fund appropriation for the Medicaid program shall be determined as follows:

- (a) To the extent that the average cost per month per eligible actually experienced by the Medicaid program is less than the average cost per month per eligible reflected in the enacted budget, the savings attributable to that difference shall be deemed to be eligible for certification under this section.
- (b) To the extent that the number of eligibles actually participating in the Medicaid program is less than the number reflected in the enacted budget, the savings attributable to that difference shall be deemed not eligible for certification under this section.
- (5) Savings in the general fund appropriation to the Department for Mental Health and Mental Retardation Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.
- (6) Savings in the general fund appropriation to the Department for Public Health shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.
- (7) Savings in the general fund appropriation to the Department for **Community Based**~~[Social]~~ Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.
- (8) Only those savings that can be certified as being recurring shall be transferred to the trust fund.

Section 35. KRS 205.634 is amended to read as follows:

- (1) No medical assistance payments shall be made under this chapter to any out-of-state health facility or health service providing services within the geographic boundaries of the Commonwealth who does not have a certificate of need if the health facility or health service would be required to obtain a certificate of need under KRS Chapter 216B if the facility or service were located within the geographic boundaries of the Commonwealth.
- (2) The Department for Medicaid Services and the Department for **Community Based**~~[Social]~~ Services shall not reimburse an out-of-state provider of residential care for children whose care is paid by state general funds or state administered federal funds, unless the Department for Medicaid Services or the Department for **Community Based**~~[Social]~~ Services or a designated agent thereof has determined that there is no provider within the Commonwealth that is capable and willing to provide comparable services at a comparable cost per child to those that would be delivered by the out-of-state provider. An exception may be made if:
 - (a) The identified in-state resource is farther away from the child's parent or guardian than a similar out-of-state resource; or
 - (b) The services offered by the out-of-state resource is deemed by either department or a designated agent thereof to be more appropriate for the individual child than the services offered by the in-state provider.
- (3) Prior to promulgating administrative regulations governing the determination of the availability of providers of residential care within the Commonwealth, the Department for Medicaid Services and the Department for **Community Based**~~[Social]~~ Services shall establish uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth.
- (4) Each department shall promulgate an administrative regulation in accordance with KRS Chapter 13A that contains the uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth established under subsection (3) of this section.

Section 36. KRS 205.6489 is amended to read as follows:

- (1) The Kentucky Children's Health Insurance Program shall be administered by the Cabinet for Health Services in terms of conducting eligibility determination and providing oversight over enrollment and claims payment.
- (2) The program shall include a system of outreach and referral for children who may be eligible for the Kentucky Children's Health Insurance Program. The program shall work with the Department for Medicaid Services, the Department for **Community Based Services**~~[Social Insurance]~~, schools, pediatricians, public health departments, and other entities interested in the health of children in developing the system of outreach and referral.
- (3) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a structure for quality assurance and utilization review under KRS 205.6481 to 205.6495 and KRS 304.17A-340.
- (4) The Kentucky Children's Health Insurance Program shall collect, analyze, and publicly disseminate comprehensive data on the number of children enrolled in the program, services received through the program, and the effect on health outcomes of children served by the program including the special health needs of minority children. The information collected by the program shall be subject to KRS 216.2927(1). The program shall have access to all data collected by the cabinet under KRS 216.2920 to 216.2929 and shall coordinate program data collection efforts with the data collection efforts of the cabinet under KRS 216.2920 to 216.2929.

Section 37. KRS 205.712 is amended to read as follows:

- (1) The Division of Child Support~~[Enforcement]~~ is established in the Cabinet for Families and Children.

- (2) The duties of the Division of Child Support ~~Enforcement~~, or its designee, shall include:
- (a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;
 - (b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;
 - (c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;
 - (d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;
 - (e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;
 - (f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;
 - (g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;
 - (h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;
 - (i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;
 - (j) Administratively establish child support orders which shall have the same force and effect of law;
 - (k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;
 - (l) Impose a penalty for failure to comply with an administrative subpoena;
 - (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;
 - (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides; and
 - (o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.
- (3) Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.
- (4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.
- (5) After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.
- (6) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a

cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

- (7) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.
- (8) The cabinet shall determine the name of each obligor who owes an arrearage of at least five thousand dollars (\$5,000). After notification to the obligor owing an arrearage amount of five thousand dollars (\$5,000), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.
- (9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after one (1) year of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).
- (10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
- (11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.
- (12) Except for cases administered by the cabinet under 42 U.S.C. sec. 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.
- (13) A dispute hearing shall be conducted by the cabinet in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.
- (14) The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to KRS 205.745 shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.
- (15) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

Section 38. KRS 205.940 is amended to read as follows:

- (1) A representative payee fund shall be created for the purpose of providing grants to public or private organizations who provide representative payee services. The fund shall consist of moneys appropriated by the General Assembly. These moneys may also be supplemented by funds obtained from other sources for the fund as provided in this section.
- (2) The fund shall be administered by the Cabinet for Families and Children.
- (3) Application for moneys from the fund may be made to the cabinet, on forms prescribed by administrative regulation. The awarding of grants shall be based upon the availability of funds. Grants shall be given to nonprofit organizations or agencies providing representative payee services to more than ten (10) persons who are mentally impaired, homeless or at risk of being homeless, or substance abusers in area development districts created pursuant to KRS 147A.050. The cabinet shall endeavor to fund an applicant where an eligible applicant exists. Health-care facilities or other institutions, who serve as representative payees for persons residing therein, shall not be eligible to receive funds under this section.
- (4) In determining the amount of each grant, the cabinet shall consider the number of persons receiving representative payee services from an applicant, the amount necessary to reimburse the applicant for all or a portion of the administrative costs incurred in providing representative payee services, and any fee charged by an applicant for the provision of representative payee services.

- (5) The cabinet shall require applicants receiving funds pursuant to this section to be bonded, and to file an annual report with the cabinet providing an accounting of all funds expended on behalf of persons for whom representative payee services are provided. The cabinet shall promulgate administrative regulations providing for the termination of a grant if it determines a representative payee is not serving in the best interests of a client. If a grant is terminated, the cabinet shall report the termination to the agency who appointed the representative payee and recommend the appointment of a new representative payee. If financial exploitation is indicated, the termination shall also be reported to the Department for Community Based Social Services for investigation pursuant to KRS Chapter 209.
- (6) The cabinet may provide training for persons serving as representative payees and may provide technical assistance to applicants awarded a grant.
- (7) The cabinet may apply for any grants that may be used to supplement the representative payee fund, and may accept gifts or donations to the fund.

Section 39. KRS 207.200 is amended to read as follows:

- (1) The Kentucky Department of Workplace Standards is authorized to enforce the employment provisions of KRS 207.130 to 207.240 in conjunction with the State Attorney General's office and the state and local courts.
- (2) Any individual with a disability requesting the intervention of the Kentucky Department of Workplace Standards under this section shall, within one hundred and eighty (180) days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the disability or disabilities which affect him. This statement may be used by the commissioner of workplace standards or his representative to determine if the individual does, or does not, have a "physical disability" as defined in KRS 207.130(2). If the commissioner of workplace standards or his representative determines that the aggrieved individual does have a disability which falls under the definition in KRS 207.130(2), the Department of Workplace Standards shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.
- (3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the commissioner of workplace standards, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department of Workplace Standards to continue its involvement with the case, he shall be required to submit to the commissioner of workplace standards, within thirty (30) days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving individuals with disabilities:
 - (a) Specifying and describing the disability or disabilities affecting the individual; and
 - (b) Indicating any specific type of employment for which such disability should be considered a bona fide or necessary reason for limitation or exclusion.
- (4) (a) The state agencies which may be consulted under subsection (3) of this section may include, but are not limited to, the following:
 - 1. Department of Education, Office of Vocational Rehabilitation Services;
 - 2. Cabinet for Health Services, Department for Public Health;
 - 3. Cabinet for Families and Children, ~~Department for Division of~~ Disability Determination Services.
- (b) The commissioner of workplace standards, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;
- (c) The agencies designated in this subsection, and any other state agency which serves individuals with disabilities and which the commissioner of workplace standards deems proper, shall cooperate to the fullest with the Department of Workplace Standards in issuing a statement of disability and limitations as specified in subsection (3) of this section within twenty (20) days of the date the individual with a disability presents himself before such agency for examination.
- (5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace standards, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization, or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;
- (b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;
- (c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department of Workplace Standards an application for reconsideration of the determination. Upon such application, the commissioner of workplace standards or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she

had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;

- (d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization, or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization, or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

Section 40. KRS 209.005 is amended to read as follows:

- (1) The Cabinet for Families and Children shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various state agency representatives from the following list:
 - (a) The Department for Community Based~~[Social]~~ Services;
 - (b)~~[(c)]~~ ~~The Department for Social Insurance;~~
 - ~~(c)]~~ The Department for Public Health;
 - ~~(c)]~~~~(d)]~~ The Department for Mental Health and Mental Retardation;
 - ~~(d)]~~~~(e)]~~ The Office of Aging Services~~[Division of Aging]~~;
 - ~~(e)]~~~~(f)]~~ The Division of Licensing and Regulation;
 - ~~(f)]~~~~(g)]~~ The Office of the Ombudsman; and
 - ~~(g)]~~~~(h)]~~ Area Agencies on Aging.
- (2) The committee shall address issues of prevention, intervention, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:
 - (a) Senior citizen centers;
 - (b) Local governmental human service groups;
 - (c) The Sanders-Brown Center on Aging at the University of Kentucky;
 - (d) Long Term Care Ombudsmen; and
 - (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.
- (3) The committee shall:
 - (a) Explore the need for a comprehensive statewide resource directory of services for the elderly;
 - (b) Enhance existing public awareness campaigns for elder abuse and neglect; and
 - (c) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.
- (4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

Section 41. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Families and Children;
- (2) "Cabinet" means the Cabinet for Families and Children;
- (3) "Department" means the Department for Community Based~~[Social]~~ Services of the Cabinet for Families and Children;
- (4) "Adult" means:
 - (a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or
 - (b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;
- (6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or

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agreement;

- (7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;
- (8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;
- (9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
- (10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;
- (11) "Emergency protective services" are protective services furnished an adult in an emergency;
- (12) "Protective placement" means the transfer of an adult from his present living arrangement to another;
- (13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;
- (14) "Access to records" means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and
- (15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.

Section 42. KRS 210.271 is amended to read as follows:

- (1) No patient in an institution for the mentally ill or the mentally retarded operated by the Cabinet for Health Services shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.
- (2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for ~~Community Based~~ Social Services for appropriate placement. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Licensing and Regulation for investigation.

Section 43. KRS 211.686 is amended to read as follows:

- (1) A local child fatality response team may be established in every county or group of contiguous counties by the coroner or coroners with jurisdiction in the county or counties. The local coroner may authorize the creation of additional local teams within the coroner's jurisdiction as needed.
- (2) Membership of the local team may include representatives of the coroner, the local office of the Department for ~~Community Based~~ Social Services, law enforcement agencies with investigation responsibilities for child fatalities which occur within the jurisdiction of the local team, the Commonwealth's and county attorneys, representatives of the medical profession, and other members whose participation the local team believes is important to carry out its purpose. Each local team member shall be appointed by the agency the member is representing and shall serve at the pleasure of the appointing authority.
- (3) The purpose of the local child fatality response team shall be to:
 - (a) Allow each member to share specific and unique information with the local team;
 - (b) Generate overall investigative direction and emphasis through team coordination and sharing of specialized information;
 - (c) Create a body of information that will assist in the coroner's effort to accurately identify the cause and reasons for death; and
 - (d) Facilitate the appropriate response by each member agency to the fatality, including but not limited to, intervention on behalf of other children who may be adversely affected by the situation, implementation of health services necessary for protection of other citizens, further investigation by law enforcement, or legal action by Commonwealth's or county attorneys.
- (4) The local team may:
 - (a) Analyze information regarding local child fatalities to identify trends, patterns, and risk factors;
 - (b) Recommend to the state team, and any other entities deemed appropriate, changes in state or local programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate

strategies for prevention and reduce the number of child fatalities; and

- (c) Evaluate the effectiveness of local prevention and intervention strategies.
- (5) The local team may establish a protocol for the investigation of child fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
- (6) The review of a child fatality by a local team may include information from reports generated or received by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case.
- (7) The proceedings, records, opinions, and deliberations of the local team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the local team.

Section 44. KRS 213.066 is amended to read as follows:

- (1) For each adoption decreed by a Circuit Court in the Commonwealth, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the state registrar. The report shall include the facts necessary to establish a new certificate of birth of the person adopted and identify the order of adoption, and be certified by the clerk of the court.
- (2) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The Department for Community Based~~(Social)~~ Services or any other agency or person having knowledge of the facts shall supply the court with the additional information necessary to complete the report. The provision of the information shall be prerequisite to the issuance of a final decree in the matter by the court.
- (3) If an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the birth record.
- (4) Not later than the fifteenth day of each calendar month or more frequently, the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulments of adoption, and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.
- (5) If the state registrar receives a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, the state registrar shall forward the report to the state registrar in the state of birth. If the birth occurred in a foreign country and the child was not a citizen of the United States at the time of birth, the state registrar shall prepare a record of foreign birth as provided by KRS 213.056(2). If the child was born in Canada, the state registrar shall also send a copy of the report of adoption, annulment of adoption, or amendment of a decree of adoption to the appropriate registration authority in that country.

Section 45. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for Public Health; the commissioner of the Department for Mental Health and Mental Retardation~~(Social)~~ Services; ~~the commissioner of the Department for Social Insurance;~~ the inspector general; the director of the Division for Licensing and Regulation; the executive director of the Office of Aging Services; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 46. KRS 216.787 is amended to read as follows:

- (1) No agency providing services to senior citizens which are funded by the Department for Community Based~~(Social)~~ Services or the Office of Aging Services of the Cabinet for Families and Children shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.
- (2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.
- (3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 47. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in a nursing facility or nursing pool providing staff to a nursing facility or in a position funded by the Department for Community Based~~(Social)~~ Services or the Office of Aging Services of the Cabinet for Families and Children and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request and shall not exceed five dollars (\$5) per application.

Section 48. KRS 216B.455 is amended to read as follows:

- (1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:
- (a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;
 - (b) Department for Community Based ~~Social~~ Services;
 - (c) Local school districts;
 - (d) Psychiatric hospitals; and
 - (e) Any other agency, organization, or facility deemed appropriate by the cabinet.
- (2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.
- (3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations.
- (4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital.
- (5) The total number of psychiatric residential treatment facility beds shall not exceed sixteen (16) beds in any area development district with less than 275,000 population; thirty-two (32) beds in any area development district with 275,000 to 550,000 population; and forty-eight (48) beds in any area development district with over 550,000 population.

Section 49. KRS 222.021 is amended to read as follows:

- (1) There is hereby created within the Cabinet for Health Services a Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group. The work group shall carry out the planning and coordinating activities of the Commonwealth with regard to substance dependency and abuse among pregnant women and other women of childbearing age.
- (2) The work group shall be appointed by the secretary for health services and be composed of, but not restricted to, a representative of the Cabinet for Health Services, Department for Public Health, Division of Maternal and Child Health Services; Department for Community Based ~~Social~~ Services; ~~Department for Social Insurance;~~ Department for Mental Health and Mental Retardation Services, Division of Substance Abuse and Division of Mental Health; Department for Medicaid Services; Justice Cabinet, Department of State Police, Drug Enforcement, Special Investigations Unit; Department of Education, Division of Program Resources; Office of the Attorney General; Office for a Drug Free Kentucky; Kentucky Commission on Women; Regional Community Mental Health and Mental Retardation System; University of Kentucky Institute on Women and Substance Abuse; University of Louisville, School of Medicine, Department of Pediatrics; University of Kentucky Medical Center, Department of Obstetrics and Gynecology; local or district health department; Kentucky Psychological Association; Kentucky Pharmacists Association; Kentucky Hospital Association; Kentucky Nurses Association; and the Kentucky Medical Association; Kentucky Chapter of the National Association of Social Workers; Kentucky Association of Addiction Professionals; Kentucky Prevention Network; Coalition for Women's Substance Abuse Services; Kentucky Women's Advocates; Kentucky Youth Advocates; Kentucky Chapter of the March of Dimes; Foster Parent Association; and the Homeless Coalition.
- (3) The Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group shall be chaired jointly by the Director of the Division of Substance Abuse and another member of the work group who has been elected by the membership of the work group. The work group shall meet at least quarterly and shall periodically assess the extent of alcohol and other substance dependency and abuse among Kentucky women who are pregnant and other women of childbearing age; identify, develop, and coordinate resources available and needed within the Commonwealth for any woman who is pregnant or of childbearing age and at risk of alcohol and substance dependency or abuse; and identify, develop, and coordinate resources available and needed for infants and children exposed to alcohol or drugs in utero or through alcohol or drug abuse in the home.
- (4) The work group shall make a biennial report, no later than January 1 of each odd-numbered year, of its activities and any recommendations to the Secretary of the Cabinet for Health Services and the Legislative Research Commission.
- (5) The provisions of subsections (1) to (4) of this section, creating a Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group shall expire on July 15, 2002. As of that date, the Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group shall cease to exist.

Section 50. KRS 314.142 is amended to read as follows:

- (1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:
 - (a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;
 - (b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";
 - (c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and
 - (d) Methods of monitoring overall program implementation.
- (2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the commissioner of the Department for **Community Based**~~(Social)~~ Services of the Cabinet for Families and Children or the commissioner's designee; the executive director of the Governor's Office of Child Abuse and Domestic Violence Services or the executive director's designee; the president of the Kentucky Association of Sexual Assault Programs or the president's designee; the commissioner of the Department for Public Health of the Cabinet for Health Services or the commissioner's designee; the commissioner of the Kentucky State Police or the commissioner's designee; the chair of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. One (1) member shall be a physician with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Medical Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Health Services.
- (3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
- (4) The chair of the advisory council shall be elected by a majority vote of council members.
- (5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.
- (6) Any person in this state who holds a credential as a Sexual Assault Nurse Examiner as defined in KRS 314.011(14) shall have the right to use the title "Sexual Assault Nurse Examiner" and the abbreviation "SANE". No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a Sexual Assault Nurse Examiner.

Section 51. KRS 403.270 is amended to read as follows:

- (1)
 - (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for **Community Based**~~(Social)~~ Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.
 - (b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, 403.420, and 405.020.
- (2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. The court shall consider all relevant factors including:
 - (a) The wishes of the child's parent or parents, and any de facto custodian, as to his custody;
 - (b) The wishes of the child as to his custodian;
 - (c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who

may significantly affect the child's best interests;

- (d) The child's adjustment to his home, school, and community;
 - (e) The mental and physical health of all individuals involved;
 - (f) Information, records, and evidence of domestic violence as defined in KRS 403.720;
 - (g) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;
 - (h) The intent of the parent or parents in placing the child with a de facto custodian; and
 - (i) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school.
- (3) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.
 - (4) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.
 - (5) The court may grant joint custody to the child's parents, or to the child's parents and a de facto custodian, if it is in the best interest of the child.
 - (6) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

Section 52. KRS 403.783 is amended to read as follows:

- (1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).
- (2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims' services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based ~~Social~~ Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.
- (3) No later than January 1 after July 15, 1996, and July 31 of every even-numbered year which follows, every law enforcement agency shall submit a copy of the agency's written domestic violence policy to the Justice Cabinet.
- (4) If a law enforcement agency fails to submit a copy of the agency's written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.
- (5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

Section 53. KRS 403.785 is amended to read as follows:

- (1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Families and Children, Department for Community Based ~~Social~~ Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.
- (2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:
 - (a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;
 - (b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the

- victim to the nearest medical facility capable of providing the necessary treatment; and
- (c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

Section 54. KRS 407.5102 is amended to read as follows:

The Circuit Court, District Court, and family courts shall be the state tribunals for judicial proceedings, and the Cabinet for Families and Children and the Division of Child Support ~~Enforcement (DCSE)~~ shall be the state tribunals for administrative proceedings.

Section 55. KRS 431.650 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be comprised of the following members:
 - (a) The commissioner of the Department for Community Based ~~Social~~ Services or a designee;
 - (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
 - (c) One (1) social ~~family~~ service worker who is employed by the Department for Community Based ~~Social~~ Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Families and Children;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Families and Children;
 - (e) The commissioner of the Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;
 - (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education; and
 - (l) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
- (4) The commission shall elect a chairperson annually from its membership.

Section 56. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
 - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 1. A state, county, city, or federal peace officer;
 2. An employee of a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 3. An employee of the Department for Community Based ~~Social~~ Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or
 4. A probation and parole officer; or
 - (b) Being a person confined in a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the facility.
- (2) Assault in the third degree is a Class D felony.

Section 57. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

- (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - (b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - (c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);
 - (d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 - (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 - (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 - (g) Abandons or exploits the child; or
 - (h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
- (2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
 - (3) "Cabinet" means the Cabinet for Families and Children;
 - (4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
 - (5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;
 - (6) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
 - (7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
 - (8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
 - (9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;
 - (10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
 - (11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
 - (12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
 - (13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
 - (14) "Deadly weapon" has the same meaning as it does in KRS 500.080;
 - (15) "Department" means the Department for ~~Community Based~~ ~~Social~~ Services;
 - (16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or

supervision of the child;

- (17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;
- (18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;
- (19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;
- ~~(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;~~
- ~~(22)~~ "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- ~~(22)~~~~(23)~~ "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- ~~(23)~~~~(24)~~ "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;
- ~~(24)~~~~(25)~~ "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;
- ~~(25)~~~~(26)~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- ~~(26)~~~~(27)~~ "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- ~~(27)~~~~(28)~~ "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- ~~(28)~~~~(29)~~ "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- ~~(29)~~~~(30)~~ "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;
- ~~(30)~~~~(31)~~ "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;
- ~~(31)~~~~(32)~~ "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;
- ~~(32)~~~~(33)~~ "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- ~~(33)~~~~(34)~~ "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- ~~(34)~~~~(35)~~ "Needs of the child" means necessary food, clothing, health, shelter, and education.
- ~~(35)~~~~(36)~~ "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- ~~(36)~~~~(37)~~ "Parent" means the biological or adoptive mother or father of a child;
- ~~(37)~~~~(38)~~ "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

- ~~(38)~~~~(39)~~ "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- ~~(39)~~~~(40)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- ~~(40)~~~~(41)~~ "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- ~~(41)~~~~(42)~~ "Qualified mental health professional" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- ~~(42)~~~~(43)~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- ~~(43)~~~~(44)~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- ~~(44)~~~~(45)~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;
- ~~(45)~~~~(46)~~ "Secretary" means the secretary of the Cabinet for Families and Children;
- ~~(46)~~~~(47)~~ "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;
- ~~(47)~~~~(48)~~ "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- ~~(48)~~~~(49)~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- ~~(49)~~~~(50)~~ "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- ~~(50)~~~~(51)~~ "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;
- ~~(51)~~~~(52)~~ "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- ~~(52)~~ "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if

committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

- (53) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;
- (54) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (55) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and
- (56) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 58. KRS 605.110 is amended to read as follows:

- (1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.
- (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.
- (3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.
 - (a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Families and Children and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Families and Children, Department for Community Based ~~(Social)~~ Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.
 - (b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.
 - (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:
 - 1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
 - 2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
 - 3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
 - 4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and
 6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.
- (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:
1. Provide for the development and implementation of interagency agreements that:
 - a. Define the financial responsibility of each state and local agency for providing services to state agency children;
 - b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
 2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Families and Children.
- (e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.
- (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 59. KRS 620.270 is amended to read as follows:

- (1) Subject to the provisions of KRS 620.230, the local citizen foster care review board shall review the case of each child placed in the custody of the cabinet by an order of temporary custody or commitment by the court in the county or counties which the local board serves. The review shall occur at least once every six (6) months until the child is no longer in the custody of the cabinet or until an adoption proceeding becomes final.
- (2) During each six (6) month review, the local citizen foster care review board shall review:
 - (a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, case progress reports submitted by the cabinet, and other information as the board may require;
 - (b) The efforts or adjustment the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;
 - (c) The efforts of the cabinet to locate and provide services to the biological parents of the child;
 - (d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and
 - (e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board determine to be explored with regard to the best interests of the state or of the child.
- (3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for ~~Community Based~~ Social Services and approved by the state review board in regard to child sexual abuse, the local citizen foster care review board may review, at the discretion of the board, a sample of all petitions filed in the District Court of the county served by the board alleging sexual abuse of any child, not to exceed two hundred (200) petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, medical professionals, and law enforcement agencies pertaining to these cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.

Section 60. KRS 199.801 is amended to read as follows:

- (1) The department shall establish a procedure throughout the state that is designed to determine and expedite the placement of children who are in the custody of the department. The procedure shall utilize a statewide placement coordinator and district placement coordinators who may be state employees or employees of a contracted entity, and who shall be

assigned and located in each of the department's districts.

- (2) Upon determining that a child shall be removed from the current living arrangement, the social service~~family services~~ worker with responsibility for the child shall contact the district placement coordinator to facilitate the placement. In consultation with the social service~~family services~~ worker, the district placement coordinator shall determine the appropriate type of placement according to the child's circumstances and needs and shall attempt to locate the appropriate placement within the child's home county.
- (3) The living arrangement and placement selected for the child shall be the type of facility that is determined to be the best alternative for the child that is in the closest proximity to the child's home county.
- (4) If the type of placement that best suits the child's needs is not available in the child's home county, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in another county located within the home district of the child.
- (5) If the type of placement that best suits the child's needs is not available in the child's home district, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in surrounding districts by contacting the statewide placement coordinator.
- (6) If the type of placement that best suits the child's needs is not available in the districts surrounding the child's home district, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in any district within the state by contacting the statewide placement coordinator.
- (7) If the type of placement that best suits the child's needs is not available within the state, the statewide placement coordinator shall contact the commissioner of the department or the commissioner's designee to explore placement options.
- (8) The statewide placement coordinator and every district placement coordinator shall compile information that identifies the unmet needs for their jurisdiction, and shall submit the data and recommendations for meeting the unmet needs to the commissioner of the department.
- (9) The commissioner shall develop a state placement resource plan that identifies areas of unmet need and strategies to meet the need. The plan shall be used to guide and, if necessary, restrict the development of new facilities, the expansion of existing facilities, and the geographic location of placement alternatives.
- (10) The commissioner and the statewide planning coordinator shall assist the Statewide Strategic Planning Committee for Children in Placement, created in KRS 194B.102, in the development of a statewide facilities services plan.

Section 61. KRS 211.684 is amended to read as follows:

- (1) For the purposes of KRS Chapter 211:
 - (a) "Child fatality" means the death of a person under the age of eighteen (18) years; and
 - (b) "Local child fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child deaths, including but not limited to, coroners, social~~family~~ service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys.
- (2) The Department for Public Health may establish a state child fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health-care providers, and other agencies or professions deemed appropriate by the commissioner of the department.
- (3) If a state team is created, the duties of the state team may include the following:
 - (a) Develop and distribute a model protocol for local child fatality response teams for the investigation of child fatalities;
 - (b) Facilitate the development of local child fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;
 - (c) Review and approve local protocols prepared and submitted by local teams;
 - (d) Receive data and information on child fatalities and analyze the information to identify trends, patterns, and risk factors;
 - (e) Evaluate the effectiveness of prevention and intervention strategies adopted; and
 - (f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child fatalities.
- (4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the Legislative Research Commission, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis of the incidence and causes of child fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child fatality cases.

Section 62. KRS 605.090 is amended to read as follows:

- (1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:
 - (a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;
 - (b) Placed in the home of the child's parents, in the home of a relative, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social[family] service worker or juvenile probation and parole officer. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;
 - (c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that: No child committed under the provisions of KRS 610.010(1)(b), (c), or (d) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;
 - (d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;
 - (e) Treated as provided in KRS Chapter 645;
 - (f) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), or (e) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.
- (2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;
- (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:
 - (a) If the social[family] service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social[family] service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;
 - (b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social[family] service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;
 - (c) If a social[family] service worker finds a committed, unattended child who is too young to take care of himself, the social[family] service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social[family] service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or
 - (d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social[family] service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to

the parents' home.

- (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.
- (5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.
- (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.
- (7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Section 63. KRS 620.040 is amended to read as follows:

- (1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.
- (3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (4)
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
 - (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
 - (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if

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there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- (5) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include, but is not limited to, ~~social~~~~family~~ service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
- (f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Section 64. To the extent the following executive orders are not otherwise confirmed or superseded by this Act, the General Assembly hereby confirms these executive orders relating to the reorganization of the Cabinet for Families and Children:

- (1) Executive Order 98-731, dated June 16, 1998, relating to the internal structure of the Cabinet for Families and Children. In that executive order, the Department for Community Based Services is established and the Department for Social Services and the Department for Social Insurance are abolished; the Office of Performance Enhancement is established; the Division of Operations and Resource Management in the Office of Program Support is abolished and is replaced by the Division of Personnel, which is created within the Office of Program Support; the Division of Technical Support and the Division of Systems Support are created within the Office of Technology Services; the Division of Outcome Based Contracts and the Division of Quality Development are created within the Office of Performance Enhancement; the Divisions of Policy Development, Protection and Permanency, Family Support, Child Care, Child Support, Disability Determinations Services, and Service Regions are all established within the Department for Community Based Services; the Divisions of Management and Development, Field Services, Administrative Review, Child Support Enforcement, and Disabilities Determinations are all abolished from the Department for Social Insurance; the Divisions of Program Management and Family Services are abolished from the Department for Social Services.
- (2) Executive Order 99-203, dated February 11, 1999, relating to the internal structure of the Cabinet for Families and Children. In that executive order, the Division for Disability Determinations Services within the Department for Community Based Services in the Cabinet for Families and Children is abolished and the Department for Disability Determination Services is established.
- (3) Executive Order 99-1200, dated August 30, 1999, relating to the internal structure of the Cabinet for Families and Children. That executive order appoints the commissioner for Community Based Services, or the commissioner's designee, and the commissioner of the Department for Juvenile Justice, or the commissioner's designee, as permanent members of the State Interagency Council for Services to Children with emotional disabilities.
- (4) Executive Order 99-255, dated March 1, 1999, relating to the internal structure of the Cabinet for Families and Children. That executive order transfers the staff and appropriations for the Case Inquiry and Response functions in the Office of the

Ombudsman to the Department for Community Based Services, Division of Family Support; transfers the administrative hearings function and its staff from the Department for Community Based Services, Division of Family Support, to the Office of Performance Enhancement, Division of Quality Development; transfers the maintenance of the L&N Building in Jefferson County from the Office of Program Support to the Department for Community Based Services; transfers the implementation function of the Empower Transportation Initiative from the Office of Technology Services to the Department for Community Based Services; transfers the maintenance and requests of state exchange funds from the United States Department of Agriculture, Food and Nutrition Service, and the mediation and liaison between family support staff and quality control from the Office of Performance Enhancement to the Department for Community Based Services; transfers the special projects, policy and legislative coordination, and leasing and design functions from the Department for Community Based Services to the Office of Program Support; transfers systems support from the Department for Community Based Services to the Office of Technology Services; transfers the legal secretarial support from the Department for Community Based Services to the Office of the General Counsel; transfers the functions of the federal compliance monitoring and the training for Temporary Assistance for Needy Families, food stamp, and medical assistance programs from the Department for Community Based Services to the Office of Performance Enhancement.

Section 65. It is the intention of the General Assembly that any separate legislation that is enacted to confirm Executive Order 99-80, relating to the transfer of the Office of Aging Services from the Cabinet for Families and Children to the Cabinet for Health Services along with all related programs and services, shall be given effect, and the Reviser of Statutes is directed to take action to implement both acts in order to give effect to both. The Reviser of Statutes is authorized to consult with and receive the advice of the secretaries of the Cabinet for Families and Children and the Cabinet for Health Services, or their designees, as may be necessary to accomplish this objective.

SB 25, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context indicates otherwise:

- (1) "Board" means the board of directors of the Eastern Kentucky Exposition Center Corporation;*
- (2) "Center" means the Eastern Kentucky Exposition Center; and*
- (3) "Corporation" means the Eastern Kentucky Exposition Center Corporation.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The Eastern Kentucky Exposition Center Corporation is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The corporation shall develop, operate, and manage the Eastern Kentucky Exposition Center funded by 1998 Ky. Acts ch. 615, Part X, under the reference "Pike County Civic Center." The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes.*
- (2) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The corporation shall be governed by a board of directors consisting of seven (7) members appointed as follows:*
 - (a) Two (2) members appointed by the county judge/executive of Pike County and one (1) member appointed by the mayor of the city of Pikeville; and*
 - (b) Four (4) members appointed by the Governor.**Each appointee shall have demonstrated successful business experience.*
- (2) Members shall serve staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:*
 - (a) One (1) member appointed by the Governor and one (1) member appointed by the county judge/executive of Pike County shall serve a term of four (4) years;*
 - (b) One (1) member appointed by the mayor of Pikeville and one (1) member appointed by the Governor shall serve a term of three (3) years;*
 - (c) One (1) member appointed by the Governor and one (1) member appointed by the county judge/executive of Pike County shall serve a term of two (2) years; and*
 - (d) One (1) member appointed by the Governor shall serve a term of one (1) year.*
- (3) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance and after being afforded an opportunity for a hearing under KRS Chapter 13B.*

- (4) Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.
- (2) A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.
- (3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.
- (4) The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.
- (5) Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.
- (6) The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.
- (7) The board may employ a full-time executive director who shall hold office at its pleasure.
- (a) The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.
- (b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Eastern Kentucky Exposition Center Corporation shall have the following powers and duties:

- (1) The corporation shall supervise the design, construction, and operation of the Eastern Kentucky Exposition Center and shall provide all management functions for the facility and for any other property acquired or leased in accordance with its powers established in this section.
- (2) The corporation shall promote the growth and development of the convention, trade, tourism, hotel, restaurant, and entertainment industry in eastern Kentucky, Pike County, and the Commonwealth through utilization of the center.
- (3) The corporation shall have the exclusive control of all exhibitions, performances, and concessions in the Eastern Kentucky Exposition Center. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center and may sell the property upon ten (10) days' notice to satisfy any indebtedness.
- (4) The corporation shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract conferences and conventions to the region.
- (5) The corporation may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease or by transfer from the State Properties and Buildings Commission and may dispose of any property so acquired in any manner provided by law.
- (6) The corporation may levy a surcharge on tickets for functions held within the center to contribute to operating revenue.
- (7) The corporation may sue and be sued and maintain and defend legal actions in its corporate name.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) All revenues derived by the corporation from the use of Eastern Kentucky Exposition Center, all contributions to the center from other sources, and any revenues derived by the corporation from any other source shall be used solely for the expenses of the center, including payment on debt; the cost of management and operation of its facilities; the creation of an adequate reserve for repair, replacement, debt service, and capital improvements; the procurement of insurance; and promotional activities.
- (2) The Auditor of Public Accounts shall conduct an annual audit of all funds of the corporation and its affiliated entities, if any, and report annually to the Governor and the Legislative Research Commission.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment,

facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.

- (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
- 7. Cabinet for Families and Children:
 - (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.

- (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
 - (x) *Eastern Kentucky Exposition Center Corporation.*
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.

- (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.

- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 8. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) Kentucky Pollution Abatement Authority;
- (3) Kentucky Savings Bond Authority;
- (4) County Officials Compensation Board;
- (5) Kentucky Turnpike Authority;
- (6) State Investment Commission;
- (7) Kentucky Housing Corporation; ~~and~~
- (8) Governmental Services Center; and
- (9) Eastern Kentucky Exposition Center Corporation.

Section 9. The General Assembly confirms Executive Order 98-1020, dated August 3, 1998, as amended by Executive Order 98-1144, dated August 25, 1998, to the extent they are not otherwise confirmed or superseded by this Act.

SB 26, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context indicates otherwise:

- (1) "Authority" means the Appalachian/Kentucky Artisans Gateway Center Authority;
- (2) "Board" means the board of directors of the Appalachian/Kentucky Artisans Gateway Center Authority; and
- (3) "Center" means the Appalachian/Kentucky Artisans Gateway Center.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Appalachian/Kentucky Artisans Gateway Center Authority is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The authority shall develop, operate, and manage the Appalachian/Kentucky Artisans Gateway Center funded by 1998 Ky. Acts ch. 615, Part X, under the reference "Artisans Center-Berea." The authority shall be attached to the Tourism Development Cabinet for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:
 - (a) Secretary of the Tourism Development Cabinet, or his or her designee;
 - (b) Secretary of the Transportation Cabinet, or his or her designee;
 - (c) Secretary of the Education, Arts, and Humanities Cabinet, or his or her designee;

- (d) Secretary of the Finance and Administration Cabinet, or his or her designee;
 - (e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and
 - (f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.
- (2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:
- (a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;
 - (b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;
 - (c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and
 - (d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.
- (3) The Governor shall appoint a chair from among the members of the board.
- (4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.
- (5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) An executive director shall be appointed in accordance with KRS 12.050.
- (a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.
 - (b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.
- (2) The staff of the authority, including its executive director, shall be employees of the Tourism Development Cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a nonprofit corporation under KRS 58.180.
- (2) The board may establish from among its membership an executive committee, which shall have full authority to act between board meetings to the extent delegated by the board.
- (3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The authority shall have the following duties and authorities:

- (1) The authority shall supervise the design, construction, and operation of the center and shall provide all management functions for the facility and for any other property acquired or leased under its powers established by law.
- (2) The authority shall promote the growth and development of statewide tourism related to arts and crafts destinations throughout the state and shall ensure that its efforts conform to marketing and promotion strategies devised by the Tourism Cabinet.
- (3) The authority shall have the exclusive control of scheduling all exhibitions, performances, retail activities, and concessions in the center. The authority shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center and may sell the property upon ten (10) days' notice to satisfy any indebtedness.
- (4) The authority shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract events, conferences, and conventions to the region.
- (5) The authority may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission and may dispose of any property so acquired in any manner provided by law.
- (6) The authority may adopt administrative regulations in accordance with KRS Chapter 13A only for governing the operation, maintenance, or use of property under its custody and control.

- (7) The authority may levy a surcharge on tickets for functions held within the center to contribute to operating revenue.
- (8) The authority may sue and be sued and maintain and defend legal actions in its name.
- (9) Members of the authority shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

SECTION 7. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

All revenues derived by the authority from the use of the center and from contributions to the center from other sources, and any additional revenues derived by the authority from any other source, shall be used solely for the expenses of the center, including payment on debt; the cost of management and operation of its facilities; the creation of an adequate reserve for repair, replacement, debt service, and capital improvements; the procurement of insurance; and promotional activities.

Section 8. The General Assembly confirms Executive Order 99-331, dated March 12, 1999, to the extent it is not otherwise confirmed or superseded by this Act.

HCR 28, A CONCURRENT RESOLUTION confirming the reappointment of Dr. Paul Cook to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Legislative Research Commission to appoint five at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on June 2, 1999, the Legislative Research Commission reappointed Dr. Paul Cook to the Long-Term Policy Research Center Board and by letter of December 14, 1999, has submitted his appointment for the General Assembly's confirmation; and

WHEREAS, the House of Representatives and the Senate find that Dr. Paul Cook meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Dr. Paul Cook to the Kentucky Long-Term Policy Research Center Board for a term expiring July 13, 2003.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Dr. Paul Cook, 1296 Underwood Court, Bowling Green, Kentucky 42103.

HJR 42, A JOINT RESOLUTION reauthorizing the Kentucky Aquaculture Task Force, and making an appropriation therefor.

WHEREAS, the Kentucky Aquaculture Task Force was created in 1998 by House Joint Resolution 72 to develop a State Aquaculture Plan to address the proper management, use, and marketing of the state's aquacultural industry; and

WHEREAS, the State Aquaculture Plan was developed and recommendations were made to the Governor and to the Legislative Research Commission; and

WHEREAS, it is essential to the aquaculture industry in Kentucky that the recommendations made by the task force be monitored as they are implemented;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Aquaculture Task Force created by 1998 House Joint Resolution 72 is reauthorized to monitor the recommendations made in the State Aquaculture Plan as they are implemented, and to promote the development of the aquaculture industry in the Commonwealth.

Section 2. The membership guidelines of the task force remain the same, including the provision that the Department of Agriculture provide staff services for the task force.

Section 3. The task force shall develop a report by September 1, 2001, with respect to the implementation of the State Aquaculture Plan recommendations and other recommendations that the task force may support relating to the aquaculture industry in the Commonwealth. The report shall be given to the Governor and to the Legislative Research Commission.

Section 4. There is appropriated from the general fund the sum of \$5,000 to accomplish the report. Any amount remaining following the completion of the report shall revert to the general fund. The report and recommendations shall be submitted to the Governor and to the Legislative Research Commission no later than September 1, 2001.

The Committee Substitute to **HJR 42** is as follows:

HJR 42, A JOINT RESOLUTION reauthorizing the Kentucky Aquaculture Task Force, and making an appropriation therefor.

WHEREAS, the Kentucky Aquaculture Task Force was created in 1998 by House Joint Resolution 72 to develop a State Aquaculture Plan to address the proper management, use, and marketing of the state's aquacultural industry; and

WHEREAS, the State Aquaculture Plan was developed and recommendations were made to the Governor and to the Legislative Research Commission; and

WHEREAS, it is essential to the aquaculture industry in Kentucky that the recommendations made by the task force be monitored as they are implemented;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Aquaculture Task Force created by 1998 House Joint Resolution 72 is reauthorized to monitor the recommendations made in the State Aquaculture Plan as they are implemented, and to promote the development of the aquaculture industry in the Commonwealth.

Section 2. The membership guidelines of the task force remain the same, including the provision that the Department of Agriculture provide staff services for the task force.

Section 3. The task force shall develop a report by September 1, 2001, with respect to the implementation of the State Aquaculture Plan recommendations and other recommendations that the task force may support relating to the aquaculture industry in the Commonwealth. The report shall be given to the Governor and to the Legislative Research Commission.

Section 4. There is appropriated from the general fund the sum of \$5,000 to accomplish the report. Any amount remaining following the completion of the report shall revert to the general fund. The report and recommendations shall be submitted to the Governor and to the Legislative Research Commission no later than September 1, 2001.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 53, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the impact of immigration on public services and the private sector.

WHEREAS, the United States Bureau of the Census indicates that immigration will be an increasing feature of population growth in the United States; and

WHEREAS, according to the March 1999 Current Population Survey, Kentucky is experiencing significant immigration growth, with an increase of eighty-eight percent in the number of immigrants coming into the Commonwealth from 1997 to 1999; and

WHEREAS, immigrants are a growing part of the Kentucky labor force, filling occupations experiencing a shortage of labor, such as physicians in rural Kentucky and agricultural workers in tobacco and horse farm areas; and

WHEREAS, the Center for Immigration Studies reports that immigrant households are more likely to live in poverty than native households; and

WHEREAS, there exists no comprehensive study of immigration's impact on Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate direct the Legislative Research Commission to study the impact of immigration on public services and the private sector in Kentucky. The study shall include a descriptive analysis of the current status of immigration in Kentucky and an analysis of the fiscal and economic impact of immigration on the state. The study shall address the following subjects:

- (1) The number of immigrants, their country of origin, and their demographic profile;
- (2) The location of immigrants within the state;
- (3) Length and duration of residence in the state;
- (4) Services immigrants are likely to need, the cost of the services, and the governmental or other organizations that bear the cost;
- (5) The state and federal benefits for which immigrant households are eligible;
- (6) Indirect costs and benefits from immigration;

- (7) Employment patterns of immigrants in Kentucky and their effect on the availability of labor in those sectors in which they are employed; and
- (8) The level of spending by immigrants and its impact on the local and state economy.

Section 2. The Legislative Research Commission shall transmit the results of the study required by Section 1 of this Resolution to the appropriate interim joint committees prior to the 2002 Regular Session of the General Assembly.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Health and Welfare reported **HB 208**, **HB 262**, with Committee Substitute attached thereto, **HB 364**, **HB 427**, with Committee Substitute attached thereto, **HB 449**, with Committee Substitute attached thereto, and **HCR 44** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 208, AN ACT relating to organ donation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

If an individual has made an anatomical gift by signing the anatomical gift section on the back of his or her operator's license or by directing the gift as a part of a living will directive according to KRS 311.623, the individual's family members and any health care surrogate as defined in KRS 311.621 shall honor the wishes upon the death of the individual and shall not have any legal standing or authority to modify the decedent's wishes or deny the anatomical gift from being made to the donee for the purposes stated in KRS 311.185, unless the gift has been revoked.

HB 262, AN ACT relating to family care homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

"Licensed family care home" means a facility that is licensed by the Cabinet for Health Services under KRS 216B.042 to provide twenty-four (24) hour supervision and personal care services in residential accommodations for a resident who is ambulatory or mobile nonambulatory and able to manage most of the activities of daily living, who because of impaired capacity for self-care, elects to have or require a protective environment but does not have an illness, injury, or disability that requires constant medical care or skilled nursing services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The standard of need used in an eligibility determination for the optional supplemental payment made by the Cabinet for Families and Children under KRS 205.245 for a resident of a licensed family care home shall be nine hundred dollars (\$900).

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

A licensed family care home shall have no more than four (4) residents who are not related to the operator of the family care home within the third degree of consanguinity.

The Committee Substitute to **HB 262** is as follows:

HB 262, AN ACT relating to family care homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 2 of this Act:

"Licensed family care home" means a facility that is licensed by the Cabinet for Health Services under KRS 216B.042 to provide twenty-four (24) hour supervision and personal care services in residential accommodations for a resident who is ambulatory or mobile nonambulatory and able to manage most of the activities of daily living, who because of impaired capacity for self-care, elects to have or require a protective environment but does not have an illness, injury, or disability that requires constant medical care or skilled nursing services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The standard of need used in an eligibility determination for the optional supplemental payment made by the Cabinet for Families and Children under KRS 205.245 for a resident of a licensed family care home shall be nine hundred dollars (\$900).

HB 364, AN ACT relating to the Kentucky Prescription Drug Assistance Program, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) "Cabinet" means the Cabinet for Health Services;
- (2) "Eligible consumer" means any full-time resident of Kentucky who:
 - (a) Is age sixty-five (65) or older;
 - (b) Is not enrolled for prescription drug coverage under any other health benefit plan as defined in KRS 304.17A-005; and
 - (c) Is enrolled in the Qualified Medicare Beneficiary Program;
- (3) "Eligible drug" means any prescription drug approved for the Medicaid drug formulary. The term does not include a prescription drug that is manufactured by a company that does not provide a rebate for the program under Section 4 of this Act; and
- (4) "Program" means the prescription drug assistance program established under Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Prescription Drug Assistance Program is created for low income, elderly Kentuckians and shall be implemented no later than January 1, 2001, by the Secretary of the Cabinet for Health Services. The program shall expire on December 31, 2003, unless extended by the General Assembly or superseded by Act of Congress.
- (2) The cabinet shall provide, to each eligible consumer, pharmacy assistance through direct payment for the eligible drug to the dispensing pharmacy or health care provider that filled the prescription for the eligible drug, or to the consumer upon presentation of a verifiable receipt. The maximum annual cap under this program for each eligible consumer shall be seven hundred dollars (\$700).
- (3) A copayment of five dollars (\$5) per prescription shall be collected by the dispensing pharmacist prior to the dispensing of an eligible drug. The pharmacist shall retain the copayment, which shall constitute the dispensing fee.
- (4) The cabinet shall market the program to inform potential eligible consumers about the program's existence, about the drugs covered as eligible drugs, about the copayment, and about any limitations on access to eligible drugs.
- (5) Enrollment in the program shall be established during a sixty (60) day period of open enrollment, during which applications shall be accepted and eligibility shall be determined. The cabinet shall close the open enrollment period if it determines that benefit payments under the program are projected to exceed the amounts appropriated for the program. There shall be no enrollment fee.
- (6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Develop an application and process to determine whether a person is an eligible consumer;
 - (b) Establish a process through which an eligible consumer may appeal a decision that denies reimbursement for an eligible drug; and
 - (c) Implement all other provisions of Sections 1 to 4 of this Act.
- (7) Prior to September 1, 2001, the cabinet shall, for fiscal years 2002-2004:
 - (a) Project the expenditures of the program based upon eligibility criteria and covered benefits; and
 - (b) Submit a report to the Legislative Research Commission that summarizes consumer demographics, utilization, provider dispensing experience, utilization review results, and other information as deemed necessary by the cabinet or as requested by the Legislative Research Commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The dispensing pharmacist shall be reimbursed for the products dispensed under the program at the average wholesale price of the eligible drug, less ten percent (10%).
- (2) No pharmacist or pharmaceutical company shall be compelled to participate in the program. Program participation shall not be implied or compelled by virtue of a pharmacist's or pharmaceutical company's participation in Medicaid.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall provide an eligible drug to an eligible consumer through a manufacturer rebate arrangement with a pharmaceutical company in an amount consistent with the Medicaid rebate of fifteen and one-tenth percent (15.1%) of the Average Manufacturer Price (AMP) for innovator or brand name products and eleven percent (11%) of AMP for noninnovator or generic products.
- (2) The cabinet shall maintain and collect data to evaluate the success of the program at providing eligible drugs to eligible consumers, the effect of the program on the health of older Kentuckians, and the cost effectiveness of the

program.

Section 5. There is appropriated out of the general fund in the State Treasury \$10,000,000 for fiscal year 2000-2001 and \$10,000,000 for fiscal year 2001-2002 for the purposes of carrying out the provisions of Sections 1 to 4 of this Act. Funds not expended in fiscal year 2000-2001 may be carried over to fiscal year 2001-2002.

Section 6. Whereas the health of older Kentuckians is suffering because of the lack of health insurance coverage for pharmaceuticals; and whereas there is a fundamental need to care for our older Kentuckians because they have toiled to make this great Commonwealth a better place for us to live; and whereas approximately 20 other states currently are providing pharmaceutical assistance to their elderly; and whereas the need is increasing for a program to provide assistance for drugs for the elderly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 427, AN ACT relating to domestic violence and sexual assault.***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

Section 1. KRS 194A.540 is amended to read as follows:

- (1) The secretary for health services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:
 - (a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;
 - (b) Alcohol and drug counselors certified under KRS Chapter 309;
 - (c) Physicians who practice primary care, as defined in KRS 164.925, or who meet the definition of a psychiatrist under KRS 202A.011, and who are licensed under KRS Chapter 311; ~~and~~
 - ~~(d)(c)~~ Nurses licensed under KRS Chapter 314;
 - (e) Paramedics certified under KRS Chapter 311;
 - (f) Emergency medical technicians certified under KRS Chapter 211; and
 - (g) Coroners as defined in KRS 72.405 and medical examiners as defined in KRS 72.240.
- (2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.
- (3) ~~Any~~ No later than June 30, 1999, every health-care or mental health professional identified in subsection (1) of this section ~~licensed or certified under KRS Chapter 309, 311, 314, 319, or 335, on or after July 15, 1996,~~ shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. Health care or mental health professionals ~~Persons~~ who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) The Governor's Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.
- (2) Members of the council shall include:
 - (a) The Attorney General or a designee;
 - (b) The secretary of the Cabinet for Families and Children or a designee;
 - (c) The secretary of the Cabinet for Health Services or a designee;
 - (d) The secretary of the Justice Cabinet or a designee;
 - (e) The public advocate or a designee;
 - (f) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services;
 - (g) The executive director of the Kentucky Criminal Justice Council;
 - (h) The executive director of the Commission on Women;
 - (i) At the direction of the Chief Justice of the Supreme Court, the executive director of the Administrative Office of the Courts;
 - (j) One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;
 - (k) The executive director of the Kentucky Domestic Violence Association;
 - (l) The president of the Kentucky Domestic Violence Association or a designee;

- (m) The executive director of the Kentucky Association of Sexual Assault Programs;
- (n) The president of the Kentucky Association of Sexual Assault Programs or a designee;
- (o) Two (2) members of the Senate who shall be appointed by the President of the Senate;
- (p) Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and
- (q) The following members, who shall be appointed by the Governor. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:
 - 1. One (1) county attorney;
 - 2. One (1) Commonwealth's attorney;
 - 3. One (1) Circuit Court Clerk;
 - 4. One (1) sheriff;
 - 5. One (1) peace officer;
 - 6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
 - 7. One (1) advocate for adult victims of domestic or sexual violence;
 - 8. One (1) advocate for child witnesses of domestic or sexual violence;
 - 9. One (1) physician;
 - 10. One (1) sexual assault nurse examiner;
 - 11. One (1) mental health professional with demonstrated expertise in treating offenders;
 - 12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
 - 13. One (1) person employed as a probation or parole officer; and
 - 14. Two (2) citizen at-large members.
- (3) The Governor shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the Governor.
- (4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.
- (5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.
- (6) The duties and responsibilities of the council shall include, but not be limited to, the following:
 - (a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;
 - (b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;
 - (c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;
 - (d) Promoting community awareness and the prevention of domestic and sexual violence;
 - (e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice Cabinet, the Cabinet for Families and Children, and the Cabinet for Health Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;
 - (f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Kentucky State Police, the Cabinet for Families and Children, the Cabinet for Health Services, the Department of Corrections, and the Administrative Office of the Courts;
 - (g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and
 - (h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.
- (7) The council shall establish any committees necessary to carry out its duties.
- (8) The council shall be attached to the Governor's Office of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.

- (9) The secretary of the Justice Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.
- (2) Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under Section 7 of this Act, family service workers employed by the Cabinet for Families and Children, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.
- (3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.
- (4) Local domestic violence coordinating councils shall develop a local protocol consistent with the model protocol issued by the Governor's Council on Domestic Violence and Sexual Assault.
- (5) Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.
- (6) Domestic violence fatality review teams of local domestic violence coordinating councils may:
- (a) Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;
 - (b) Evaluate the effectiveness of local prevention and intervention strategies; and
 - (c) Recommend, to the Governor's Council on Domestic Violence and Sexual Assault, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
- (7) The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.
- (8) The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

Section 4. KRS 403.784 is amended to read as follows:

- (1) The Justice Cabinet shall develop initial training courses and continuing education courses, designed to be provided at least once every two (2) years, for law enforcement officers, police dispatchers, and probation or parole officers concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime[domestic violence] on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, and rape.
- (2) All law enforcement agencies shall provide initial training and, at least once every two (2) years, continuing education courses, developed by the Justice Cabinet pursuant to subsection (1), to all officers employed by them.
- (3) The Justice Cabinet shall provide initial training and, at least once every two (2) years, continuing education courses under subsection (1) of this section for police dispatchers and probation or parole officers.

Section 5. KRS 15.718 is amended to read as follows:

- (1) The Attorney General shall provide initial training courses and, at least once every two (2) years, continuing education courses for Commonwealth's attorneys and county attorneys and their staffs concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime[domestic violence] on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with prosecutors[legal], victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, and rape.
- (2) Each Commonwealth's Attorney, assistant Commonwealth's Attorney, county attorney, and assistant county attorney shall

successfully complete the training.

Section 6. KRS 21A.170 is amended to read as follows:

In-service training programs shall be provided~~[The Supreme Court shall provide,]~~ at least once every two (2) years~~[, in-service training programs]~~ for Circuit Judges, District Judges, and domestic relations and trial commissioners in:

- (1) Child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues; and
- (2) Dynamics of domestic violence and rape, effects of crime~~[domestic violence]~~ on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence and rape, available community resources and victims services, and reporting requirements.

Each Circuit Judge, District Judge, and trial and domestic relations commissioner shall successfully complete the training prescribed by the Supreme Court by rule.

Section 7. KRS 421.570 is amended to read as follows:

- (1) For the purposes of this section and KRS 421.575, "victim advocate" means an individual at least eighteen (18) years of age and of good moral character, who is employed by, or serves as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims as defined in KRS 421.500, and includes a victim advocate employed by a Commonwealth's attorney pursuant to KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS 69.350.
- (2) Each victim advocate shall complete training which shall include information concerning the difference between advocacy and the practice of law, and the appropriate intervention with crime victims, including victims of domestic violence, child physical and sexual abuse, and rape.
- (3) A victim advocate shall not engage in the practice of law as defined in KRS 524.130.

Section 8. The following KRS section is repealed:

15.944 In-service training for prosecutors on child sexual abuse.

The Committee Substitute to **HB 427** is as follows:

HB 427, AN ACT relating to domestic violence and sexual assault.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.540 is amended to read as follows:

- (1) The secretary for health services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:
 - (a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;
 - (b) Alcohol and drug counselors certified under KRS Chapter 309;
 - (c) Physicians who practice primary care, as defined in KRS 164.925, or who meet the definition of a psychiatrist under KRS 202A.011, and who are licensed under KRS Chapter 311;~~[and]~~
 - ~~(d)[(c)]~~ Nurses licensed under KRS Chapter 314;
 - (e) Paramedics certified under KRS Chapter 311;
 - (f) Emergency medical technicians certified under KRS Chapter 211; and
 - (g) Coroners as defined in KRS 72.405 and medical examiners as defined in KRS 72.240.
- (2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.
- (3) ~~Any~~~~[No later than June 30, 1999, every]~~ health-care or mental health professional identified in subsection (1) of this section~~[licensed or certified under KRS Chapter 309, 311, 314, 319, or 335, on or after July 15, 1996,]~~ shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. Health care or mental health professionals identified in subsection (1) of this section~~[Persons]~~ who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) The Governor's Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.

- (2) Members of the council shall include:
- (a) The Attorney General or a designee;
 - (b) The secretary of the Cabinet for Families and Children or a designee;
 - (c) The secretary of the Cabinet for Health Services or a designee;
 - (d) The secretary of the Justice Cabinet or a designee;
 - (e) The public advocate or a designee;
 - (f) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services;
 - (g) The executive director of the Kentucky Criminal Justice Council;
 - (h) The executive director of the Commission on Women;
 - (i) At the direction of the Chief Justice of the Supreme Court, the executive director of the Administrative Office of the Courts;
 - (j) One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;
 - (k) The executive director of the Kentucky Domestic Violence Association;
 - (l) The president of the Kentucky Domestic Violence Association or a designee;
 - (m) The executive director of the Kentucky Association of Sexual Assault Programs;
 - (n) The president of the Kentucky Association of Sexual Assault Programs or a designee;
 - (o) Two (2) members of the Senate who shall be appointed by the President of the Senate;
 - (p) Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and
 - (q) The following members, who shall be appointed by the Governor. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:
 - 1. One (1) county attorney;
 - 2. One (1) Commonwealth's attorney;
 - 3. One (1) Circuit Court Clerk;
 - 4. One (1) sheriff;
 - 5. One (1) peace officer;
 - 6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
 - 7. One (1) advocate for adult victims of domestic or sexual violence;
 - 8. One (1) advocate for child witnesses of domestic or sexual violence;
 - 9. One (1) physician;
 - 10. One (1) sexual assault nurse examiner;
 - 11. One (1) mental health professional with demonstrated expertise in treating offenders;
 - 12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
 - 13. One (1) person employed as a probation or parole officer; and
 - 14. Two (2) citizen at-large members.
- (3) The Governor shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the Governor.
- (4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.
- (5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.
- (6) The duties and responsibilities of the council shall include, but not be limited to, the following:
- (a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;
 - (b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;

- (c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;
 - (d) Promoting community awareness and the prevention of domestic and sexual violence;
 - (e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice Cabinet, the Cabinet for Families and Children, and the Cabinet for Health Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;
 - (f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Kentucky State Police, the Cabinet for Families and Children, the Cabinet for Health Services, the Department of Corrections, and the Administrative Office of the Courts;
 - (g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and
 - (h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.
- (7) The council shall establish any committees necessary to carry out its duties.
 - (8) The council shall be attached to the Governor's Office of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.
 - (9) The secretary of the Justice Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.
- (2) Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under Section 7 of this Act, family service workers employed by the Cabinet for Families and Children, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.
- (3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.
- (4) Local domestic violence coordinating councils shall develop a local protocol consistent with the model protocol issued by the Governor's Council on Domestic Violence and Sexual Assault.
- (5) Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.
- (6) Domestic violence fatality review teams of local domestic violence coordinating councils may:
 - (a) Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;
 - (b) Evaluate the effectiveness of local prevention and intervention strategies; and
 - (c) Recommend, to the Governor's Council on Domestic Violence and Sexual Assault, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
- (7) The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.
- (8) The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

Section 4. KRS 403.7505 is amended to read as follows:

- (1) The Cabinet for Health Services shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.

- (2) The standards created by the cabinet shall be based on the following principles:
 - (a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;
 - (b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and
 - (c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.
- (3) The standards created by the cabinet shall address the following:
 - (a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;
 - (b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;
 - (c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;
 - (d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;
 - (e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;
 - (f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;
 - (g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and
 - (h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.
- (4) The cabinet shall:
 - (a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and
 - (b) Collect data from certified providers, which shall include the number of domestic violence offenders served by the certified providers, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission.

- (5) No person, association, or organization shall conduct, operate, maintain, advise, or advertise any program that provides court-ordered treatment services for domestic violence offenders without first obtaining or maintaining valid certification under this chapter. If the cabinet has cause to believe that court-ordered treatment services for domestic violence offenders are being provided by a person or entity that does not possess valid certification under this chapter, the cabinet may institute proceedings, in the Circuit Court of the county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.

Section 5. KRS 403.784 is amended to read as follows:

- (1) The Justice Cabinet shall develop initial training courses and continuing education courses, designed to be provided at least once every two (2) years, for law enforcement officers, police dispatchers, and probation or parole officers concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime~~domestic violence~~ on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, and rape.
- (2) All law enforcement agencies shall provide initial training and, at least once every two (2) years, continuing education courses, developed by the Justice Cabinet pursuant to subsection (1), to all officers employed by them.
- (3) The Justice Cabinet shall provide initial training and, at least once every two (2) years, continuing education courses under subsection (1) of this section for police dispatchers and probation or parole officers.

Section 6. KRS 15.718 is amended to read as follows:

- (1) The Attorney General shall provide initial training courses and, at least once every two (2) years, continuing education courses for Commonwealth's attorneys and county attorneys and their staffs concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime~~domestic violence~~ on adult and child victims, legal

remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with prosecutors~~(legal)~~, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, and rape.

- (2) Each Commonwealth's Attorney, assistant Commonwealth's Attorney, county attorney, and assistant county attorney shall successfully complete the training.

Section 7. KRS 21A.170 is amended to read as follows:

In-service training programs shall be provided~~[The Supreme Court shall provide,]~~ at least once every two (2) years~~[, in-service training programs]~~ for Circuit Judges, District Judges, and domestic relations and trial commissioners in:

- (1) Child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues; and
- (2) Dynamics of domestic violence and rape, effects of crime~~[domestic violence]~~ on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence and rape, available community resources and victims services, and reporting requirements.

Each Circuit Judge, District Judge, and trial and domestic relations commissioner shall successfully complete the training prescribed by the Supreme Court by rule.

Section 8. KRS 421.570 is amended to read as follows:

- (1) For the purposes of this section and KRS 421.575, "victim advocate" means an individual at least eighteen (18) years of age and of good moral character, who is employed by, or serves as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims as defined in KRS 421.500, and includes a victim advocate employed by a Commonwealth's attorney pursuant to KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS 69.350.
- (2) Each victim advocate shall complete training which shall include information concerning the difference between advocacy and the practice of law, and the appropriate intervention with crime victims, including victims of domestic violence, child physical and sexual abuse, and rape.
- (3) A victim advocate shall not engage in the practice of law as defined in KRS 524.130.

Section 9. The following KRS section is repealed:

15.944 In-service training for prosecutors on child sexual abuse.

HB 449, AN ACT relating to state mental institutions, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.045 is amended to read as follows:

- (1) The Cabinet for Health Services shall:

- (a)~~[(1)]~~ Maintain, operate, and assume program responsibility for all state institutions and facilities for mental retardation;
- (b)~~[(2)]~~ Provide rehabilitation services for mentally retarded persons through educational and training programs;
- (c)~~[(3)]~~ Provide medical and allied services to mentally retarded persons and their families;
- (d)~~[(4)]~~ Encourage and assist communities to develop programs and facilities in the field of mental retardation;
- (e)~~[(5)]~~ Sponsor or carry out research, or both, in the field of mental retardation;~~[and]~~
- (f)~~[(6)]~~ Assist other governmental and private agencies in the development of programs and services for mentally retarded persons and their families and for the prevention of mental retardation, and coordinate programs and services so developed;
- (g) Provide written notice to the Legislative Research Commission of its intent to propose legislation to permit immediate or gradual closure of any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities at least sixty (60) days prior to the next legislative session; and
- (h) 1. Provide written notice by registered mail to each resident, family member or guardian, or other interested party with standing to act on behalf of the resident of its intent to propose legislation to permit immediate or gradual closure of any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities at least sixty (60) days prior to the next legislative session; and
 2. Include in the written notice provided under this paragraph that the resident, the resident's family member or guardian, or other interested party with standing to act on behalf of the resident has the right to pursue legal action relating to the notice provisions of this paragraph and relating to the closure of

the facility.

- (2) Any state-operated facility or group home that provides residential services to persons with mental retardation or other developmental disabilities and that has been funded by the General Assembly in a specific biennium, shall not be closed, nor shall the Cabinet for Health Services announce the pending closure of the facility, during the same biennium except through the provisions specified by subsection (1) of this section.
- (3) The Cabinet for Health Services may close any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities upon the effective date of an adopted act of legislation that contains the signature of the Governor.
- (4) When a demonstrated health or safety emergency exists for a facility, the cabinet may seek relief from the requirements of this section in the Circuit Court of the county where the facility is located. In emergency situations:
 - (a) The cabinet shall provide written notice by registered mail to each resident, family member or guardian, or other interested party with standing to act on behalf of the resident within ten (10) days of the emergency closure; and
 - (b) All interested parties, including the cabinet, the resident, family member or guardian, or other interested parties with standing to act on behalf of the resident shall have standing in the proceedings under this subsection.
- (5) Any resident, family member or guardian, or other interested party with standing to act on behalf of the resident who wishes to challenge the decision or actions of the Cabinet for Health Services regarding the notice requirements of subsection (1) of this section shall have a cause of action in the Circuit Court of the county in which the facility is located, or in Franklin Circuit Court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.
- (6) Any resident, family member or guardian, or other interested party with standing to act on behalf of the resident may challenge the decision of the state to close a facility in a de novo hearing in the Circuit Court of the county in which the facility is located, or in Franklin Circuit Court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

A court hearing as provided under subsection (6) of Section 1 of this Act shall consider each of the following items relevant to the closure of the facility:

- (1) Estimated timelines for the implementation of the closure of the facility;
- (2) The types and array of available and accessible community-based services for individuals with mental retardation and other developmental disabilities and their families;
- (3) The rights of individuals with mental retardation and other developmental disabilities;
- (4) The process used to develop a community living plan;
- (5) Individual and community monitoring and safeguards to protect health and safety;
- (6) The responsibilities of state and local governments;
- (7) The process used to transfer ownership or the state's plan to reuse the property; and
- (8) Other issues identified by the cabinet, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident that may affect the residents, their families, employees, and the community.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

For any facility that the cabinet has announced plans for closure prior to the effective date of this Act, the cabinet shall be subject to the notice provisions of Section 1 of this Act within ten (10) days of the effective date of this Act. The cabinet shall delay proceedings toward closure until the proceedings for all hearings permitted under Section 1 of this Act have been completed.

Section 4. Whereas the closure of state residential facilities for individuals with mental retardation or other developmental disabilities has an immediate and significant impact on residents and their families, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 449** is as follows:

HB 449, AN ACT relating to state mental institutions, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.045 is amended to read as follows:

- (1) The Cabinet for Health Services shall:

- ~~(a)(1)~~ Maintain, operate, and assume program responsibility for all state institutions and facilities for mental retardation;
- ~~(b)(2)~~ Provide rehabilitation services for mentally retarded persons through educational and training programs;
- ~~(c)(3)~~ Provide medical and allied services to mentally retarded persons and their families;
- ~~(d)(4)~~ Encourage and assist communities to develop programs and facilities in the field of mental retardation;
- ~~(e)(5)~~ Sponsor or carry out research, or both, in the field of mental retardation;~~and~~
- ~~(f)(6)~~ Assist other governmental and private agencies in the development of programs and services for mentally retarded persons and their families and for the prevention of mental retardation, and coordinate programs and services so developed;
- (g) Provide written notice to the Legislative Research Commission of its intent to propose legislation to permit immediate or gradual closure of any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities at least sixty (60) days prior to the next legislative session; and
- (h) 1. Provide written notice by registered mail to each resident, family member or guardian, or other interested party with standing to act on behalf of the resident of its intent to propose legislation to permit immediate or gradual closure of any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities at least sixty (60) days prior to the next legislative session; and
2. Include in the written notice provided under this paragraph that the resident, the resident's family member or guardian, or other interested party with standing to act on behalf of the resident has the right to pursue legal action relating to the notice provisions of this paragraph and relating to the closure of the facility.
- (2) Any state-operated facility or group home that provides residential services to persons with mental retardation or other developmental disabilities and that has been funded by the General Assembly in a specific biennium, shall not be closed, nor shall the Cabinet for Health Services announce the pending closure of the facility, during the same biennium except through the provisions specified by subsection (1) of this section.
- (3) The Cabinet for Health Services may close any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities upon the effective date of an adopted act of legislation.
- (4) When a demonstrated health or safety emergency exists for a facility, the cabinet may seek relief from the requirements of this section in the Circuit Court of the county where the facility is located. In emergency situations:
 - (a) The cabinet shall provide written notice by registered mail to each resident, family member or guardian, or other interested party with standing to act on behalf of the resident within ten (10) days of the emergency closure; and
 - (b) All interested parties, including the cabinet, the resident, family member or guardian, or other interested parties with standing to act on behalf of the resident shall have standing in the proceedings under this subsection.
- (5) Any resident, family member or guardian, or other interested party with standing to act on behalf of the resident who wishes to challenge the decision or actions of the Cabinet for Health Services regarding the notice requirements of subsection (1) of this section shall have a cause of action in the Circuit Court of the county in which the facility is located, or in Franklin Circuit Court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.
- (6) Any resident, family member or guardian, or other interested party with standing to act on behalf of the resident may challenge the decision of the state to close a facility in a de novo hearing in the Circuit Court of the county in which the facility is located, or in Franklin Circuit Court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section..

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

A court hearing as provided under subsection (6) of Section 1 of this Act shall consider each of the following items relevant to the closure of the facility:

- (1) Estimated timelines for the implementation of the closure of the facility;
- (2) The types and array of available and accessible community-based services for individuals with mental retardation and other developmental disabilities and their families;
- (3) The rights of individuals with mental retardation and other developmental disabilities;
- (4) The process used to develop a community living plan;
- (5) Individual and community monitoring and safeguards to protect health and safety;

- (6) The responsibilities of state and local governments;
- (7) The process used to transfer ownership or the state's plan to reuse the property; and
- (8) Other issues identified by the cabinet, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident that may affect the residents, their families, employees, and the community.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

For any facility that the cabinet has announced plans for closure prior to the effective date of this Act, the cabinet shall be subject to the notice provisions of Section 1 of this Act within ten (10) days of the effective date of this Act. The cabinet shall delay proceedings toward closure until the proceedings for all hearings permitted under Section 1 of this Act have been completed.

Section 4. Whereas the closure of state residential facilities for individuals with mental retardation or other developmental disabilities has an immediate and significant impact on residents and their families, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HCR 44, A CONCURRENT RESOLUTION relating to the establishment of a task force to complete a study to identify barriers to quality end-of-life care, best practices, and strategies to improve quality of care.

WHEREAS, the National Task Force on End-of-Life Care in Managed Care reported that end-of-life care has been an intractable problem across the United States and contributions from many sectors of the American society will be needed to improve access to comprehensive, high-quality care, to strengthen accountability, and to develop payment methods; and

WHEREAS, a group of researchers completed a four (4) year Study to Understand Prognoses and Preferences for Outcomes and Risks of Treatments (SUPPORT) in five (5) teaching hospitals in the United States to improve end-of-life decision making and reduce the frequency of a mechanically supported, painful, and prolonged process of dying. The researchers found shortcomings in the care for seriously ill hospitalized patients including pain management and physician knowledge of the patient's desires regarding resuscitation; and

WHEREAS, too many patients die in physical pain and discomfort, despite the technical capability to control most symptoms near the end of life; and

WHEREAS, physicians are often fearful of disciplinary actions for prescribing appropriate medications to promote comfort in patients who are dying; and

WHEREAS, consumers are unaware of their rights to make decisions about end of life care; and

WHEREAS, legal matters surrounding advance directives often complicate decision making for patients, families, and health care practitioners; and

WHEREAS, patients' and families' wishes are often ignored; and

WHEREAS, technologies are often imposed upon patients that merely prolong the dying process, while comfort and support are not provided; and

WHEREAS, patients and families have the right to a seamless health care system that provides access to holistic care which includes care for the mind, body, and soul through both technical methods and supportive care; and

WHEREAS, reimbursement for care should support access to both technical and supportive care; and

WHEREAS, the curriculum for health care providers is limited in the amount of content related to palliative or end of life care; and

WHEREAS, the opportunities for medical students, residents, and other health care providers to participate in guided palliative care experiences need to be expanded;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a thirty (30) member task force to complete a study to identify the barriers to quality end-of-life care, identify strategies to improve access to quality end-of-life care that is culturally competent and based upon patients' and families' desires, identify ways to strengthen accountability to determine whether quality care is being delivered, and identify payment methods for delivering a seamless system of care. The Legislative Research Commission shall appoint two (2) members of the House of Representatives and two (2) members of the Senate to serve as members and co-chairs of the task force. The members of the task force shall include, but not be limited to, representatives from the Kentucky Nurses Association, the Kentucky Medical Association, the Kentucky Hospital Association, the Kentucky Pharmacists Association, the Kentucky Commission on Women, Kentuckians for Compassionate Care, the Kentucky Association of Hospices, the Department for Public Health, the Kentucky Board of Medical Licensure, the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists, the Division of Consumer Protection of the Office of the Attorney General, the Office of Aging Services, the Kentucky Society of Health System Pharmacists, the Kentucky Association of Health Care

Facilities, and the Journey's End, a Kentucky Partnership for Quality End-of-Life Care Project. The task force shall include representatives of hospitals, universities, hospices, and nursing homes, and shall include palliative care physicians, aging specialists, and nurses currently providing end-of-life care.

Section 2. The task force shall submit a final report of its findings and recommendations to the Legislative Research Commission no later than September 1, 2001.

Section 3. Staff services to be utilized in completing the work of the task force are estimated to cost \$30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Orders of the Day

Representative Stumbo moved that **HB 124** be taken from the Clerk's Desk and placed in the Orders of the Day for February 2, 2000. Agreed.

HB 222 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that **HB 222** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 1, 2000 roll call on **HB 222** - Appendix.)

HB 222 was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 222** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 113** be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 1, 2000 roll call on **HB 113** - Appendix.)

HB 113 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 113** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 108 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 108** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 1, 2000 roll call on **HB 108** - Appendix.)

HB 108 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 108** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 126, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute No. 1 to **HB 126**. Agreed.

Representative Yonts moved that **HB 126**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 1, 2000 roll call on **HB 126** - Appendix.)

HB 126, by way of Committee Substitute, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 126**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 10, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 10**. Agreed.

Representative Nunn moved that **HB 10** be laid upon the Clerk's Desk. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 71**:

HR 71, A RESOLUTION adjourning the House of Representatives in honor of the 200th Anniversary of the Grand Lodge of Kentucky.

WHEREAS, the Masons are the largest and oldest fraternity worldwide whose recorded history dates back nearly 1,000 years, and whose fellowship was founded on friendship, charity, brotherly love, and benevolence; and

WHEREAS, many of our founding fathers were Masons, including such notable statesmen as George Washington, Benjamin Franklin, and Henry Clay--men who were instrumental in the establishment and development of our great nation; and

WHEREAS, most of the signers of the Declaration of Independence and the Constitution of the United States were Masons, and the significance of their allegiance to this great nation is unparalleled and will have lasting impact; and

WHEREAS, noted for being great arbitrators and for their unbounded loyalty to God, to their country, and to their fellow man, their humanitarian contributions have given them global distinction; and

WHEREAS, upon motion of Green Clay to the Virginia Lodge #25 in the year 1788, it was granted that the members could hold a regular Lodge of Free Masons in the town of Lexington, establishing the first lodge west of the Allegheny Mountains, and now known as Lexington Lodge #1; and

WHEREAS, in 1800, permission was given for severance from Kentucky, whereby the Grand Lodge of Kentucky was established, beginning the heritage of service and devotion to the ideals of Free Masonry recognized and honored by those who serve as Masons in the Commonwealth today; and

WHEREAS, the Grand Lodge of Kentucky now celebrates two hundred years of friendship, charity, and brotherly love;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud and honored to recognize members of the Grand Lodge of Kentucky for their genuine love and concern for humanity, and they are held in the highest esteem for their dedication to worthy causes without prejudice to or judgment of their fellow man.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the 200th Anniversary of the Grand Lodge of Kentucky:

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Robert Damron for presentation to the Grand Lodge of Kentucky.

There being no objection **HR 71** was adopted.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 528, by Representative Gray: AN ACT relating to workers' compensation.

HB 529, by Representative Gray: AN ACT relating to crimes and punishments.

HB 530, by Representative Gray: AN ACT relating to workers' compensation.

HB 531, by Representative Gray: AN ACT relating to workers' compensation.

HB 532, by Representatives Childers and Alexander: AN ACT relating to speed limits.

HB 533, by Representative Wilkey: AN ACT relating to crimes and punishment.

HB 534, by Representative Wilkey: AN ACT relating to revenue and taxation.

HB 535, by Representative J. Adams: AN ACT relating to the employees of the Department of Corrections.

HB 536, by Representative Geveden: AN ACT relating to remittance of tax.

HB 537, by Representative Geveden: AN ACT relating to retirement.

HB 538, by Representatives Richards, Nesler, Yonts, Gray, McKee, C. Belcher, Sims, Worthington, Collins, Scott, Thompson, L. Clark, Ford, Wilkey, Wayne, J. Adams, Horlander, Stacy, Geveden, Thomas, Bruce, Childers, Marzian, Gooch, A. Arnold, and Miller: AN ACT relating to compensation of property valuation administrators.

HB 539, by Representatives Horlander, Riggs, Bruce, Heleringer, L. Clark, Jenkins, P. Clark, Miller, Burch, D. Butler, Wayne, and Bather: AN ACT relating to the planning commission in counties with populations in excess of 300,000.

HB 540, by Representative Crenshaw: AN ACT relating to reorganization.

HR 77, by Representatives Treesh, J. Arnold, and Gooch: A RESOLUTION condemning the recent remarks of Craig Kilborn, host of the Late, Late Show on the CBS television network.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 360, HB 359, HB 431, HB 438, HB 334**

Health and Welfare: **HB 448**

State Government: **HB 491**

Motions, Petitions, and Communications (Continued)

Representative Adkins moved the adoption of the following **Legislative Citation No. 35**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Shirley D. Lawson Hurt and offers its sincerest condolences to the Hurt family and to all those who share in the loss of this distinguished and admired citizen of Kentucky. The cherished daughter of the late James Larkin and Amanda Bayes Lawson; beloved wife of the late Thurston Hurt; adoring mother of Joanne Werner, Barbara Whites Skean and Thurston Lawson Hurt and doting grandmother of three grandchildren, five great-grandchildren and three step-great-grandchildren, Ms. Hurt was a retired educator and social worker in Lawrence County and gave generously of her time and talents as an active and devoted member of the Louisa United Methodist Church, the Order of Eastern Star and the Democratic Woman's Club. She will long be remembered for the tireless enthusiasm she demonstrated while working for the betterment of the Lawrence County community. The esteemed members of this honorable body do solemnly join with Representative Rocky Adkins in honoring the memory of Shirley D. Lawson Hurt for the valuable contributions her presence lent to her family, her community and to this Commonwealth. Done in Frankfort, this first day of February, in the year of our Lord, two-thousand.

Legislative Citation No. 35 was adopted without objection.

Representative Hoffman moved the adoption of the following **HR 67**:

HR 67, A RESOLUTION adjourning the House of Representatives in honor of the Bluegrass Chapter of the Order of DeMolay.

WHEREAS, the Order of DeMolay quickly grew into the largest fraternal youth organization in the world, having enrolled more than three million members since it was founded; and

WHEREAS, today there are more than fifty thousand members between the ages of twelve and twenty-one in chapters existing in eight countries, including nine chapters within the Commonwealth of Kentucky; and

WHEREAS, each chapter of the Order of DeMolay is sponsored by a lodge or other body of the Ancient Order of Free and Accepted Masons or a member of the Masonic Family of Organizations; and

WHEREAS, the Order of DeMolay attempts to inculcate within the young men and boys the basic tenets of love of God, love of Family, and love of Country; and

WHEREAS, the Order of DeMolay acknowledges Seven Basic Principles, those being: Love of parents; Respect for others, their opinions and the things they hold sacred; Courtesy toward all with whom they come in contact; Friendship; Faithfulness; Cleanness in thought and action; and Patriotism; and

WHEREAS, the Order of DeMolay provides young men and boys opportunities to participate in educational, social, and sporting activities, as well as stressing community involvement and personal growth in a safe and healthy environment;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed honored and privileged to acknowledge the Order of DeMolay as an outstanding organization for young men and boys, and we do hereby commend the men who serve as adult advisors to the Chapters of the Order.

Section 2. This honorable body expresses its deepest appreciation to the young men who are members of the Bluegrass Chapter of the Order of DeMolay who are serving as Pages today.

Section 3. When the House of Representatives adjourns on February 1, 2000, it does so in honor of the Bluegrass Chapter of the Order of DeMolay.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Charlie Hoffman for presentation to the Bluegrass Chapter of the Order of DeMolay.

There being no objection **HR 67** was adopted.

Representative Crimm moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **HB 108, HB 113, and HB 126**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johns moved that she be recorded as voting "yea" on **HB 126**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HB 126**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 108**. Agreed.

Representative Stumbo moved to waive the three day posting requirement on **HB 500 and HB 501**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to **HB 355**, by Representative Miller:

On page 1, after line 14, insert:

"Section 2. This Act may be cited as the Roxie Denkhoff Act."

Floor Amendment No. 5 to **HB 70**, by Representative Kerr:

On page 1, delete lines 1 to 17 in their entirety and insert in lieu thereof:

"Section 1. KRS 344.130 is amended to read as follows:

As used in this chapter, unless the context requires otherwise, ~~{ }~~

"place of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds, ~~{ }~~ except that:

- (1) A private club is not a "place of public accommodation, resort, or amusement" if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; ~~{and}~~
- (2) "Place of public accommodation, resort, or amusement" does not include a rooming or boarding house containing not more than one (1) room for rent or hire and which is within a building occupied by the proprietor as his residence; **and**
- (3) **"Place of public accommodation, resort, or amusement" does not include a religious organization and its activities and facilities if the application of KRS 344.120 would not be consistent with the religious tenets of the organization, subject**

to paragraphs (a), (b), and (c) of this subsection.

- (a) Any organization that teaches or advocates hatred based on race, color, or national origin shall not be considered a religious organization for the purposes of this subsection.
- (b) A religious organization that sponsors nonreligious activities that are operated and governed by the organization, and that are offered to the general public, shall not deny participation by an individual in those activities on the ground of disability, race, color, religion, or national origin.
- (c) A religious organization shall not, under any circumstances, discriminate in its activities or use of its facilities on the ground of disability, race, color, or national origin."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 10: Representative Stumbo
- HB 70: Representatives Gooch, Tapp
- HB 213: Representative Bratcher
- HB 267: Representatives C. Belcher, Cave, Graham, Marcotte
- HB 377: Representatives L. Belcher, Feeley
- HB 405: Representative Yonts
- HB 439: Representative L. Belcher
- HB 442: Representative Draud
- HB 466: Representative L. Belcher
- HB 485: Representative Gooch
- HB 490: Representative Anderson
- HB 504: Representative Tapp
- HB 519: Representatives R. Adams, Bather, Bowling, Haydon, Lee, Nesler, Palumbo, Riggs, Webb
- HB 521: Representatives Jenkins, Riggs
- HB 522: Representatives Jenkins, Riggs
- HB 523: Representatives Jenkins, Riggs
- HB 524: Representatives Jenkins, Riggs

The following members filed requests to have their names withdrawn as co-sponsors of Bills under rules previously suspended:

- HB 438: Representatives Hoover, Rader
- HB 489: Representative L. Belcher

Announcements

The following meetings were announced:

Budget Review Subcommittee on General Government, February 2, 2000, 10:00 a.m.

Majority Caucus, February 2, 2000, upon adjournment, Democratic Headquarters

Seniors, Military Affairs, and Public Safety, February 1, 2000, upon adjournment, Room 131

Elections, Constitutional Amendments, and Intergovernmental Affairs, February 2, 2000, 10:00 a.m.

Tourism, Development, and Energy, February 2, 2000, upon adjournment

Education, February 2, 2000, 8:00 a.m.

Transportation, February 2, 2000, 10:00 a.m.

The following meeting was canceled:

Labor and Industry, February 2, 2000

Adjournment

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 2, 2000.

The motion that the House adjourn until 2:00 p.m., February 2, 2000, was adopted by voice vote.

FEBRUARY 2, 2000
TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Doctor Eric Fruge, Calvary Baptist Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Lindsay.

Senate Message

Announcing passage of **SB 55, SB 59, SB 62, SB 65, SB 73, SB 74, SB 81, SCR 16, HB 43, and HB 95.**

HB 96 returned with the following message: The Senate has passed **HB 96** by way of Senate Committee Substitute and respectfully requests concurrence of this honorable body. (Time 2:10 p.m.)

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 1, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to a special guest. Agreed.

Clay Jenkinson, interpreter of historical characters, representing Thomas Jefferson briefly addressed the House.

Introduction of Bills and Resolutions

HB 541, by Representative Moberly: AN ACT relating to corporate income tax.

HB 542, by Representative Moberly: AN ACT relating to motor vehicle licensing.

HB 543, by Representatives Moberly, Barrows, and Damron: AN ACT relating to the Kentucky River Authority.

HB 544, by Representative Moberly: AN ACT relating to law enforcement.

HB 545, by Representative Moberly: AN ACT relating to inheritance tax.

HB 546, by Representative Nunn: AN ACT relating to abandoned infants, making an appropriation therefor, and declaring an emergency.

HB 547, by Representative Webb: AN ACT relating to insurance.

HB 548, by Representative Draud: AN ACT relating to teachers' retirement.

HB 549, by Representative Cave: AN ACT relating to limitation of actions.

HB 550, by Representatives Crimm, Childers, Ford, D. D. Butler, and L. Belcher: AN ACT relating to sales and use taxes.

HB 551, by Representative Crimm: AN ACT relating to insurance.

HJR 78, by Representative Vincent: A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on Kentucky Route 168 in Boyd County over the Little Hoods Creek in honor of W. Richard "Dick" Martin.

HR 79, by Representative Heleringer: A RESOLUTION commending Catholic schools in Kentucky and celebrating National Catholics Schools Week.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 523**

Appropriations and Revenue: **HB 521, HB 527, HB 534, HB 536**

Banking and Insurance: **HB 517, HB 520, HB 525**

Education: **HB 519**

Judiciary: **HB 526, HB 529, HB 533**

Labor and Industry: **HB 516, HB 518, HB 528, HB 530, HB 531, HR 75**

Local Government: **HB 522, HB 524, HB 539**

State Government: **HB 515, HB 535, HB 537, HB 538, HB 540, HCR 74**

Transportation: **HB 532, HJR 76**

House Floor: **HR 77**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Banking and Insurance: **HB 384, HB 415, HB 453**

Health and Welfare: **HB 405, HB 429, HB 452, HB 497, HB 468**

Economic Development: **SB 34**

Appropriations and Revenue: **HB 158, HB 237, HB 304**

State Government: **HB 476, HB 510, HB 511, HB 512, HB 513, HB 537, SCR 20**

The Clerk announced that the following Bills and Resolution have been withdrawn from Committee consideration:

State Government: **HB 27, HCR 32, HB 280**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 148**, with Committee Substitute attached thereto, and **HB 295**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 148, AN ACT relating to assisted living communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 and Sections 14 and 15 of this Act:

- (1) "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;
- (2) "Assistance with self-administration of medication" means:
 - (a) Reminding the client to take medications;
 - (b) Reading the medication's label;
 - (c) Confirming that medication is being taken by the client for whom it is prescribed;
 - (d) Opening the dosage packaging or medication container, but not removing or handling the actual medication;
 - (e) Storing the medication in a manner that is accessible to the client; and
 - (f) Making available the means of communicating with the client's physician and pharmacy for prescriptions by telephone, facsimile, or other electronic device;
- (3) "Assisted living community" means a series of living units on the same site, operated as one (1) business entity, and certified under Section 4 of this Act to provide services for five (5) or more adult persons not related within the third

degree of consanguinity to the owner or manager;

- (4) "Client" means an adult person who has entered into a lease agreement with an assisted living community;
- (5) "Danger" means physical harm or threat of physical harm to one's self or others;
- (6) "Health services" has the same meaning as in KRS 216B.015;
- (7) "Instrumental activities of daily living" means activities to support independent living including, but not limited to, housekeeping, shopping, laundry, chores, transportation, and clerical assistance;
- (8) "Living unit" means a portion of an assisted living community occupied as the living quarters of a client under a lease agreement;
- (9) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including, but not limited to, a walker, crutches, or wheelchair; and
- (10) "Office" means the Office of Aging Services within the Cabinet for Health Services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Each living unit in an assisted living community shall:
 - (a) Be at least one-hundred twenty (120) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement;
 - (b) Include one (1) unfurnished room with a lockable door, private bathroom with a tub or shower, provisions for emergency response, window to the outdoors, and a telephone jack;
 - (c) Have an individual thermostat control if the community has more than twenty (20) units; and
 - (d) Have temperatures that are not under a client's direct control at a minimum of seventy-one (71) degrees Fahrenheit in winter conditions and a maximum of eighty-one (81) degrees Fahrenheit in summer conditions if the community has twenty (20) or fewer units.
- (2) Each client shall be provided access to central dining, a laundry facility, and a central living room.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The assisted living community shall provide each client with the following services according to the lease agreement:
 - (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day;
 - (c) Scheduled daily social activities that address the general preferences of clients; and
 - (d) Assistance with self-administration of medication.
- (2) Clients of an assisted living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the client if permitted by the policies of the assisted living community.
- (3) Upon entering into a lease agreement, an assisted living community shall inform the client in writing about policies relating to the contracting or arranging for additional services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The Cabinet for Health Services shall establish a biennial certification review process by the promulgation of administrative regulations under KRS Chapter 13A.
- (2) No assisted living community shall operate unless its owner or manager has:
 - (a) Filed a current application for certification with the office; or
 - (b) Received certification from the office.
- (3) No business shall market its services as an assisted living community unless its owner or manager has:
 - (a) Filed a current application for certification with the office; or
 - (b) Received certification from the office.
- (4) The office shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the office.
- (5) Individuals designated by the office to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.
- (6) The office shall assess a biennial certification fee that shall not exceed five hundred dollars (\$500).

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The office shall report to the Division of Licensing and Regulations any alleged or actual cases of health services being delivered by the staff of an assisted living community.
- (2) An assisted living community shall have written policies on reporting and recordkeeping of alleged or actual cases of

abuse, neglect, or exploitation of an adult under KRS 209.030.

- (3) Any assisted living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

A client shall meet the following criteria:

- (1) Be ambulatory or mobile nonambulatory, unless due to a temporary health condition for which health services are being provided in accordance with subsections (2) and (3) of Section 3; and
- (2) Not be a danger.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

A lease agreement, in no smaller type than twelve (12) point font, shall be executed by the client and the assisted living community and shall include:

- (1) Client data, for the purpose of providing service, to include:
- (a) A functional needs assessment pertaining to the client's ability to perform activities of daily living and instrumental activities of daily living;
 - (b) Emergency contact person's name;
 - (c) Name of responsible party or legal guardian, if applicable;
 - (d) Attending physician's name;
 - (e) Information regarding personal preferences and social factors;
 - (f) Advance directive under KRS 311.621 to KRS 311.643, if desired by the client; and
 - (g) Optional information helpful to identify services that meet the client's needs.
- (2) Assisted living community's policy regarding termination of the lease agreement;
- (3) Terms of occupancy;
- (4) General services and fee structure;
- (5) Information regarding specific services provided, description of the living unit, and associated fees;
- (6) Provisions for modifying client services and fees;
- (7) Minimum thirty (30) day notice provision for a change in the community's fee structure;
- (8) Minimum thirty (30) day move-out notice provision for client nonpayment, subject to applicable landlord or tenant laws;
- (9) Refund and cancellation policies;
- (10) Description of any special programming, staffing, or training if an assisted living community is marketed as providing special programming, staffing, or training on behalf of clients with particular needs or conditions;
- (11) Other community rights, policies, practices, and procedures;
- (12) Other client rights and responsibilities, including compliance with subsections (2) and (3) of Section 3 of this Act; and
- (13) Grievance policy.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) An assisted living community shall provide any interested person with a:
- (a) Consumer publication, as approved by the office, that contains a thorough description of Kentucky laws and regulations governing assisted living communities;
 - (b) Standard consumer checklist provided by the office; and
 - (c) Description of any special programming, staffing, or training if the assisted living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.
- (2) An assisted living community may refer a request for information required in subsection (1)(a) of this section to the office.

SECTION 9. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Staffing in an assisted living community shall be sufficient in number and qualification to meet the twenty-four (24) hour scheduled and unscheduled needs of its clients and the services provided.
- (2) One (1) awake staff member shall be on site at all times.
- (3) An assisted living community shall have a designated manager who is at least twenty-one (21) years of age, has at least a high school diploma or GED, and has demonstrated management or administrative ability to maintain the daily operations.

- (4) No employee who has an active communicable disease reportable to the Department for Public Health shall be permitted to work in an assisted living community if the employee is a danger to the clients or other employees.

SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Assisted living community staff and management shall receive orientation and in-service education on the following topics as applicable to the employee's assigned duties:

- (1) Client rights;
- (2) Community policies;
- (3) Adult first aid;
- (4) Cardiopulmonary resuscitation;
- (5) Adult abuse and neglect;
- (6) Alzheimer's disease and other types of dementia;
- (7) Emergency procedures;
- (8) Aging process;
- (9) Assistance with activities of daily living and instrumental activities of daily living;
- (10) Particular needs or conditions if the assisted living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions; and
- (11) Assistance with self-administration of medication.

SECTION 11. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

An assisted living community constructed with funding through the Kentucky Housing Corporation shall comply with all federal housing laws and regulations.

SECTION 12. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Any assisted living community that was open or under construction on or before the effective date of this Act shall be exempt from the requirement that each living unit have a bathtub or shower.
- (2) Any assisted living community that was open or under construction on or before the effective date of this Act shall have a minimum of one (1) bathtub or shower for each five (5) clients.

SECTION 13. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Any assisted living community that provides services without filing a current application with the office or receiving certification by the office may be fined up to five hundred dollars (\$500) per day.
- (2) Any business that markets its services as an assisted living community without filing a current application with the office or receiving certification by the office may be fined up to five hundred dollars (\$500) per day.

Section 14. KRS 216.789 is amended to read as follows:

- (1) No long-term care facility as defined by KRS 216.535(1), ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community shall knowingly employ a person in a position which involves providing direct services to a resident if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.
- (2) A nursing facility, ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.
- (3) Each long-term care facility as defined by KRS 216.535(1), ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community shall request all conviction information from the Justice Cabinet for any applicant for employment pursuant to KRS 216.793.
- (4) The long-term care facility, ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community may temporarily employ an applicant pending the receipt of the conviction information.

Section 15. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in an assisted living community, ~~or~~ nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Social Services or the Office of Aging Services of the Cabinet for Families and Children and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant or

state agency in an amount no greater than the actual cost of processing the request and shall not exceed five dollars (\$5) per application.

Section 16. The following KRS section is repealed:

209.200 Assisted living residences -- Requirements for certification -- Procedures.

The Committee Substitute to **HB 148** is as follows:

HB 148, AN ACT relating to assisted living communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act:

- (1) "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;
- (2) "Assistance with self-administration of medication" means:
 - (a) Reminding the client to take medications;
 - (b) Reading the medication's label;
 - (c) Confirming that medication is being taken by the client for whom it is prescribed;
 - (d) Opening the dosage packaging or medication container, but not removing or handling the actual medication;
 - (e) Storing the medication in a manner that is accessible to the client; and
 - (f) Making available the means of communicating with the client's physician and pharmacy for prescriptions by telephone, facsimile, or other electronic device;
- (3) "Assisted living community" means a series of living units on the same site, operated as one (1) business entity, and certified under Section 4 of this Act to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;
- (4) "Client" means an adult person who has entered into a lease agreement with an assisted living community;
- (5) "Danger" means physical harm or threat of physical harm to one's self or others;
- (6) "Health services" has the same meaning as in KRS 216B.015;
- (7) "Instrumental activities of daily living" means activities to support independent living including, but not limited to, housekeeping, shopping, laundry, chores, transportation, and clerical assistance;
- (8) "Living unit" means a portion of an assisted living community occupied as the living quarters of a client under a lease agreement;
- (9) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including, but not limited to, a walker, crutches, or wheelchair; and
- (10) "Office" means the Office of Aging Services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Each living unit in an assisted living community shall:
 - (a) Be at least one-hundred twenty (120) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement;
 - (b) Include one (1) unfurnished room with a lockable door, private bathroom with a tub or shower, provisions for emergency response, window to the outdoors, and a telephone jack;
 - (c) Have an individual thermostat control if the assisted living community has more than twenty (20) units; and
 - (d) Have temperatures that are not under a client's direct control at a minimum of seventy-one (71) degrees Fahrenheit in winter conditions and a maximum of eighty-one (81) degrees Fahrenheit in summer conditions if the assisted living community has twenty (20) or fewer units.
- (2) Each client shall be provided access to central dining, a laundry facility, and a central living room.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The assisted living community shall provide each client with the following services according to the lease agreement:
 - (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day;
 - (c) Scheduled daily social activities that address the general preferences of clients; and
 - (d) Assistance with self-administration of medication.

- (2) Clients of an assisted living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the client if permitted by the policies of the assisted living community.
- (3) Upon entering into a lease agreement, an assisted living community shall inform the client in writing about policies relating to the contracting or arranging for additional services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The Cabinet for Health Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted living communities that shall include an on-site visit. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.
- (2) No assisted living community shall operate unless its owner or manager has:
 - (a) Filed a current application for the assisted living community to be certified by the office; or
 - (b) Received certification of the assisted living community from the office.
- (3) No business shall market its services as an assisted living community unless its owner or manager has:
 - (a) Filed a current application for the assisted living community to be certified by the office; or
 - (b) Received certification of the assisted living community from the office.
- (4) The office shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the office.
- (5) Individuals designated by the office to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.
- (6) Upon conducting a certification review, the office shall assess an assisted living community certification fee in the amount of twenty dollars (\$20) per living unit that in the aggregate for each assisted living community is no less than three hundred dollars (\$300) and no more than one thousand dollars (\$1,000).
- (7) Notwithstanding any provision of law to the contrary, the office may request any additional information from an assisted living community or conduct additional on-site visits to ensure compliance with the provisions of Sections 1 to 15 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) The office shall report to the Division of Licensing and Regulations any alleged or actual cases of health services being delivered by the staff of an assisted living community.
- (2) An assisted living community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030.
- (3) Any assisted living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

A client shall meet the following criteria:

- (1) Be ambulatory or mobile nonambulatory, unless due to a temporary health condition for which health services are being provided in accordance with subsections (2) and (3) of Section 3 of this Act; and
- (2) Not be a danger.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

A lease agreement, in no smaller type than twelve (12) point font, shall be executed by the client and the assisted living community and shall include:

- (1) Client data, for the purpose of providing service, to include:
 - (a) A functional needs assessment pertaining to the client's ability to perform activities of daily living and instrumental activities of daily living;
 - (b) Emergency contact person's name;
 - (c) Name of responsible party or legal guardian, if applicable;
 - (d) Attending physician's name;
 - (e) Information regarding personal preferences and social factors;
 - (f) Advance directive under KRS 311.621 to 311.643, if desired by the client; and
 - (g) Optional information helpful to identify services that meet the client's needs.
- (2) Assisted living community's policy regarding termination of the lease agreement;

- (3) Terms of occupancy;
- (4) General services and fee structure;
- (5) Information regarding specific services provided, description of the living unit, and associated fees;
- (6) Provisions for modifying client services and fees;
- (7) Minimum thirty (30) day notice provision for a change in the community's fee structure;
- (8) Minimum thirty (30) day move-out notice provision for client nonpayment, subject to applicable landlord or tenant laws;
- (9) Refund and cancellation policies;
- (10) Description of any special programming, staffing, or training if an assisted living community is marketed as providing special programming, staffing, or training on behalf of clients with particular needs or conditions;
- (11) Other community rights, policies, practices, and procedures;
- (12) Other client rights and responsibilities, including compliance with subsections (2) and (3) of Section 3 of this Act; and
- (13) Grievance policies that minimally address issues related to confidentiality of complaints and the process for resolving grievances between the client and the assisted living community.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) An assisted living community shall provide any interested person with a:
 - (a) Consumer publication, as approved by the office, that contains a thorough description of Kentucky laws and regulations governing assisted living communities;
 - (b) Standard consumer checklist provided by the office; and
 - (c) Description of any special programming, staffing, or training if the assisted living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.
- (2) An assisted living community may refer a request for information required in subsection (1)(a) of this section to the office.

SECTION 9. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Staffing in an assisted living community shall be sufficient in number and qualification to meet the twenty-four (24) hour scheduled and unscheduled needs of its clients and the services provided.
- (2) One (1) awake staff member shall be on site at all times.
- (3) An assisted living community shall have a designated manager who is at least twenty-one (21) years of age, has at least a high school diploma or a General Educational Development diploma, and has demonstrated management or administrative ability to maintain the daily operations.
- (4) No employee who has an active communicable disease reportable to the Department for Public Health shall be permitted to work in an assisted living community if the employee is a danger to the clients or other employees.

SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Assisted living community staff and management shall receive orientation and in-service education on the following topics applicable to the employee's assigned duties:

- (1) Client rights;
- (2) Community policies;
- (3) Adult first aid;
- (4) Cardiopulmonary resuscitation;
- (5) Adult abuse and neglect;
- (6) Alzheimer's disease and other types of dementia;
- (7) Emergency procedures;
- (8) Aging process;
- (9) Assistance with activities of daily living and instrumental activities of daily living;
- (10) Particular needs or conditions if the assisted living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions; and
- (11) Assistance with self-administration of medication.

SECTION 11. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Any assisted living community that was open or under construction on or before the effective date of this Act shall be exempt from the requirement that each living unit have a bathtub or shower.

- (2) Any assisted living community that was open or under construction on or before the effective date of this Act shall have a minimum of one (1) bathtub or shower for each five (5) clients.

SECTION 12. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) Any assisted living community that provides services without filing a current application with the office or receiving certification by the office may be fined up to five hundred dollars (\$500) per day.
- (2) Any business that markets its services as an assisted living community without filing a current application with the office or receiving certification by the office may be fined up to five hundred dollars (\$500) per day.

SECTION 13. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Religious orders providing assistance with activities of daily living, instrumental activities of daily living, and self-administration of medication to vowed members residing in the order's retirement housing shall not be required to comply with the provisions of Sections 1 to 15 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Any business, not licensed or certified in another capacity, that complies with some provisions of Sections 1 to 15 of this Act but does not provide assistance with any activities of daily living or assistance with self-administration of medication shall not be eligible for certification as an assisted living community under Sections 1 to 15 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

If a person or business seeks financing for an assisted living community project, the office shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of Sections 1 to 15 of this Act. The office may charge a fee of no more than two hundred fifty dollars (\$250) for the written correspondence to the lender.

Section 16. KRS 216.785 is amended to read as follows:

As used in KRS 216.785 to 216.793, unless the context otherwise requires:

- (1) "Assisted living community" shall have the same meaning as in Section 1 of this Act.
- (2) "Crime" means a conviction of or a plea of guilty to a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime. Conviction of or a plea of guilty to an offense committed outside the Commonwealth of Kentucky is a crime if the offense would have been a felony in Kentucky if committed in Kentucky.
- (3)(2) "Direct service" means personal or group interaction between the employee and the nursing facility resident or the senior citizen.
- (4)(3) "Nursing pool" means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in nursing facilities for medical personnel including, but not limited to, nurses, nursing assistants, nurses' aides, and orderlies.
- (5)(4) "Senior citizen" means a person sixty (60) years of age or older.

Section 17. KRS 216.789 is amended to read as follows:

- (1) No long-term care facility as defined by KRS 216.535(1), ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community shall knowingly employ a person in a position which involves providing direct services to a resident or client if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.
- (2) A nursing facility, ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.
- (3) Each long-term care facility as defined by KRS 216.535(1), ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community shall request all conviction information from the Justice Cabinet for any applicant for employment pursuant to KRS 216.793.
- (4) The long-term care facility, ~~or~~ nursing pool providing staff to a nursing facility, or assisted living community may temporarily employ an applicant pending the receipt of the conviction information.

Section 18. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in an assisted living community, ~~a~~ nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Social Services or the Office of Aging Services of the Cabinet for Families and Children and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request and shall not exceed five dollars (\$5) per application.

Section 19. The following KRS section is repealed:

209.200 Assisted living residences -- Requirements for certification -- Procedures.

HB 295, AN ACT relating to homeless veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Homeless Veterans Program is hereby created in the Kentucky Department of Veterans' Affairs, and shall be attached to the office of the commissioner for administrative purposes. The program shall develop a statewide network of:
- (a) Services that provide treatment for addictions, including but not limited to alcohol, drug use, and gambling;
 - (b) Services that lead to permanent housing;
 - (c) Services that lead to employment; and
 - (d) Concerned citizens and nonprofit agencies that provide shelter.
- (2) The mission of the Kentucky Homeless Veterans Program shall be to work toward the elimination of homelessness and the prevention of the threat of homelessness and its causes in the veteran population of the Commonwealth.
- (3) The program shall provide assistance to persons who served in the United States Armed Forces or in forces incorporated as part of the United States Armed Forces, and who were discharged under conditions other than dishonorable.
- (4) The program shall provide assistance to persons whose need for services is based upon homelessness, or other circumstances as prescribed by administrative regulations promulgated by the department.
- (5) The primary components of the program shall be:
- (a) Advocacy and public awareness. The program shall be an advocate for homeless veterans, and work to increase public awareness about the issue of homelessness among veterans and its root causes. The program shall advocate legislation and policies on the local, state, and national level to address these issues;
 - (b) Information services. The program shall monitor and research issues relating to homeless veterans and disseminate information and opportunities throughout its network;
 - (c) Technical assistance. The program, through conferences and training workshops with federal and state agencies, shall provide guidance and direction in applying for grants and benefits for homeless veterans. The program shall provide peer-to-peer consulting and on-site technical support; and
 - (d) Facilities. The program, through grants and other sources of funding, shall provide facilities as appropriate in support of the program.
- (6) The program is authorized to accept and expend moneys as may be appropriated from time to time by the General Assembly, and any moneys that may be received from any source including donations and grants.

The Committee Substitute to **HB 295** is as follows:

HB 295, AN ACT relating to homeless veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Homeless Veterans Program is hereby created in the Kentucky Department of Veterans' Affairs, and shall be attached to the office of the commissioner for administrative purposes. The program shall develop a statewide network of:
- (a) Services that provide treatment for addictions, including but not limited to alcohol, drug use, and gambling;
 - (b) Services that lead to permanent housing;
 - (c) Services that lead to employment; and
 - (d) Concerned citizens and nonprofit agencies that provide shelter.
- (2) The mission of the Kentucky Homeless Veterans Program shall be to work toward the elimination of homelessness and the prevention of the threat of homelessness and its causes in the veteran population of the Commonwealth.

- (3) The program shall provide assistance to persons who served in the United States Armed Forces or in forces incorporated as part of the United States Armed Forces, and who were discharged under conditions other than dishonorable.
- (4) The program shall provide assistance to persons whose need for services is based upon homelessness, or other circumstances as prescribed by administrative regulations promulgated by the department.
- (5) The primary components of the program shall be:
- (a) Advocacy and public awareness. The program shall be an advocate for homeless veterans, and work to increase public awareness about the issue of homelessness among veterans and its root causes. The program shall advocate legislation and policies on the local, state, and national level to address these issues;
 - (b) Information services. The program shall monitor and research issues relating to homeless veterans and disseminate information and opportunities throughout its network;
 - (c) Technical assistance. The program, through conferences and training workshops with federal and state agencies, shall provide guidance and direction in applying for grants and benefits for homeless veterans. The program shall provide peer-to-peer consulting and on-site technical support; and
 - (d) Facilities. The program, through grants and other sources of funding, shall provide facilities as appropriate in support of the program.
- (6) A Homeless Veterans Service Coordinating Committee shall be established. The committee's membership shall be comprised of representatives of public and private agencies who provide services that may be used by homeless veterans. The commissioner of the Department of Veterans' Affairs shall designate the agencies represented on the committee. The committee shall discuss and research ways in which the services that it offers can be made more easily available and better focused to serve homeless veterans.
- (7) The program is authorized to accept and expend moneys as may be appropriated from time to time by the General Assembly, and any moneys that may be received from any source including donations and grants.

Section 2. If 2000 Regular Session House Bill 139 becomes law, Section 1 of this Act shall be codified into KRS Chapter 40.

The Committee on Education reported **HB 157, HB 284, HB 305**, with Committee Substitute attached thereto, **HB 373**, with Committee Substitute attached thereto, **HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, HCR 23**, with Committee Substitute and Committee Amendment attached thereto, and **HCR 24** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 157, AN ACT relating to character education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in KRS Chapters 156 and 158, unless the context requires otherwise, "character education" means instructional strategies and curricula that:

- (1) Instill and promote core values and qualities of good character in students including altruism, citizenship, courtesy, honesty, human worth, justice, knowledge, respect, responsibility, and self-discipline;
- (2) Reflect the values of parents, teachers, and local communities; and
- (3) Improve the ability of students to make moral and ethical decisions in their lives.

Section 2. KRS 158.645 is amended to read as follows:

The General Assembly recognizes that public education involves shared responsibilities. State government, local communities, parents, students, and school employees must work together to create an efficient public school system. Parents and students must assist schools with efforts to assure student attendance, preparation for school, and involvement in learning. The cooperation of all involved is necessary to assure that desired outcomes are achieved. It is the intent of the General Assembly to create a system of public education which shall allow and assist all students to acquire the following capacities:

- (1) Communication skills necessary to function in a complex and changing civilization;
- (2) Knowledge to make economic, social, and political choices;
- (3) Core values and qualities of good character to make moral and ethical decisions throughout his or her life;
- (4) Understanding of governmental processes as they affect the community, the state, and the nation;
- ~~(5)(4)~~ Sufficient self-knowledge and knowledge of his mental and physical wellness;
- ~~(6)(5)~~ Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- ~~(7)(6)~~ Sufficient preparation to choose and pursue his life's work intelligently; and

~~(8)(7)~~ Skills to enable him to compete favorably with students in other states.

Section 3. KRS 158.6451 is amended to read as follows:

(1) The General Assembly finds, declares, and establishes that:

- (a) Schools shall expect a high level of achievement of all students.
- (b) Schools shall develop their students' ability to:
 - 1. Use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives;
 - 2. Apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives;
 - 3. Become ~~a~~ self-sufficient ~~individuals~~ ~~individual~~ of good character exhibiting the qualities of altruism, citizenship, courtesy, honesty, human worth, justice, knowledge, respect, responsibility, and self-discipline;
 - 4. Become responsible members of a family, work group, or community, including demonstrating effectiveness in community service;
 - 5. Think and solve problems in school situations and in a variety of situations they will encounter in life; and
 - 6. Connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various media sources.
- (c) Schools shall increase their students' rate of school attendance.
- (d) Schools shall reduce their students' dropout and retention rates.
- (e) Schools shall reduce physical and mental health barriers to learning.
- (f) Schools shall be measured on the proportion of students who make a successful transition to work, post-secondary education, and the military.

(2) The Kentucky Board of Education shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes, and assessment strategies developed pursuant to this section and KRS 158.645 and 158.6453. The framework shall provide direction to local districts and schools as they develop their curriculum. The framework shall identify teaching and assessment strategies, instructional material resources, ideas on how to incorporate the resources of the community, a directory of model teaching sites, ~~and~~ alternative ways of using school time, and strategies to incorporate character education throughout the curriculum.

Section 4. KRS 156.095 is amended to read as follows:

- (1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.
- (2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include planning and evaluation assistance or coordination activities.
 - (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
 - (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.
- (3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:

- (a) Curriculum content and methods of instruction for each content area;
 - (b) School-based decision making;
 - (c) Performance-based student assessment;
 - (d) Nongraded primary programs;
 - (e) Research-based instructional practices;
 - (f) Instructional uses of technology;
 - (g) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
 - (h) Instruction of phonics;~~and~~
 - (i) Educational leadership; and
 - (j) *Strategies to incorporate character education throughout the curriculum.*
- (4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.
- (5) The department shall assist districts with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.
- (a) Professional development strategies may include, but are not limited to, participation in teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.
 - (b) In planning the use of the four (4) days for professional development under KRS 158.070, priority shall be given to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. Up to one (1) day may be used to provide training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.
 - (c) State funds allocated for professional development may be used to support professional development initiatives that are consistent with local plans, throughout the year for all staff, including classified and certified staff and parents on school councils or committees.
- (6) The Department of Education shall contract with an outside agency to complete an analysis of the current status of the statewide professional development program. The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:
- (a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and
 - (b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.
- A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports on the status of the statewide professional development program.
- (7) During the 1998-1999 and 1999-2000 school years, the Department of Education shall conduct an intensive statewide professional development program to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:
- (a) Improve the academic achievement of exceptional students and students at risk of school failure;
 - (b) Significantly reduce the dropout rate of all students; and
 - (c) Prepare all students for a successful transition to adult life.

Section 5. KRS 158.060 is amended to read as follows:

- (1) Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. School shall be closed on the day of a regular election. The legal holiday designated by the Kentucky Board of Education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as a school day.
- (2) Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student

lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the chief state school officer. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the noninstructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of noninstructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's instructional day, or the time teachers are required to remain at school after the students are dismissed.

- (3) Except for children with disabilities and children attending the primary school program who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the commissioner of education and children attending a school district where the local board has approved a schedule that provides at least the equivalent of six (6) hours of daily instruction during the school year, a minimum of six (6) hours of actual school work shall constitute a school day. Kindergarten programs may be operated for less than six (6) hours without state board approval. The Kentucky Board of Education, upon recommendation of the chief state school officer, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.
- (4) Teachers shall be provided additional time for nonteaching activities. The nonteaching time shall be used to provide teachers opportunities for professional development activities as provided in KRS 156.095, instructional planning, school-based decision making as provided in KRS 160.345, curriculum development, and outreach activities involving their students' families and the community.
- (5) **Character education programs and activities shall be considered valuable and legitimate components of the actual school work constituting a school day under subsection (3) of this section.**

Section 6. KRS 158.445 is amended to read as follows:

- (1) Each local school shall begin an assessment of school safety and student discipline during the 1998-1999 school year including a review of the following:
 - (a) Reports of school incidents relating to disruptive behaviors;
 - (b) The school's behavior and discipline codes for clarity and appropriate notice to students and parents;
 - (c) The school's hierarchy of responses to discipline problems and actual disciplinary outcomes;
 - (d) Training needs for instructional staff in classroom management, student learning styles, and other specialized training to enhance teachers' capacity to engage students and minimize disruptive behavior;
 - (e) The array of school services to students at risk of academic failure, dropping out, or truancy;
 - (f) The engagement of parents at the earliest stages of problem behavior;
 - (g) Training needs for students in **the development of core values and qualities of good character**, anger reduction, conflict resolution, peer mediation, and other necessary skills;
 - (h) Training needs of parents;
 - (i) Existing school council policies relating to student discipline and student information;
 - (j) The school's physical environment;
 - (k) The school's student supervision plan;
 - (l) Existing components of the school improvement plan or consolidated plan that focus on school safety and at-risk students, and the effectiveness of the components; and
 - (m) Other data deemed relevant by the school council or school administration.

A school that does not complete an assessment process shall not be eligible for funds under the state school safety grant program in 1999-2000 and subsequent years.

- (2) By May 15, 1999, each local school district shall complete a district-level assessment of district-level data, resources, policies and procedures, and district-wide needs as identified from the individual school assessment process. The district shall engage local community agencies including law enforcement and the courts in the assessment process.
- (3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community. The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.
- (4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under KRS 158.148 and a description of instructional placement options for threatening or violent students.

HB 284, AN ACT relating to eminent domain by boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 416.560 is amended to read as follows:

- (1) Notwithstanding any other provision of the law, a department, instrumentality or agency of city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class, having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the city, county, or urban-county to institute condemnation proceedings on its behalf. If the governing body of the city, county, or urban-county agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.
- (2) If any department, instrumentality or agency of a city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class, operates in more than one (1) governmental unit, it shall request the governing body of the city, county, or urban-county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.
- (3) A department, instrumentality, or agency of the Commonwealth of Kentucky, other than the Transportation Cabinet **and local boards of education**, having a right of eminent domain under other statutes shall exercise such right only by requesting the Finance and Administration Cabinet to institute condemnation proceedings on its behalf. If the Finance and Administration Cabinet agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.
- (4) Prior to the filing of the petition to condemn, the condemnor or its employees or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding, and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

HB 305, AN ACT relating to the provision of health care services in schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) The position of education school nurse consultant is created within the Department of Education. This full-time position shall be filled by an individual who:
 - (a) Holds, at a minimum, a bachelors degree in nursing with a masters degree in nursing or a related field from an accredited postsecondary institution; and
 - (b) Is a registered nurse who is licensed under the provisions of KRS Chapter 314.
- (2) The duties of the position of education school nurse consultant shall include, but not be limited to:
 - (a) Provision of technical assistance to school districts to develop, update, and use standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. These protocols and guidelines shall include, but not be limited to, the training of designated nonmedical school personnel, the delegation of nursing functions, consistent with administrative regulations promulgated by the Kentucky Board of Nursing, and appropriate documentation relating to these protocols;
 - (b) Consultation, technical assistance, and development of quality improvement measures for the state and local boards of education, individual public schools, and local health departments;
 - (c) Facilitation of statewide and local data collection and reporting of school health services;
 - (d) Promotion of information and resources that relate to the provision of school health services; and
 - (e) Coordination with the public health school nurse consultant, created under Section 2 of this Act, in completion of duties authorized in this section.
- (3) The Kentucky Board of Education shall promulgate administrative regulations pursuant to KRS Chapter 13A to further specify the duties and other employment requirements for the position of state school nurse consultant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The position of public health school nurse consultant is created within the Department for Public Health. This full-time position shall be filled by an individual who:
 - (a) Holds, at a minimum, a bachelor's degree in nursing with a master's degree in nursing or a related field from an accredited postsecondary institution; and

(b) Is a registered nurse who is licensed under the provisions of KRS Chapter 314.

- (2) The public health school nurse consultant shall assist the education school nurse consultant with the duties specified in Section 1 of this Act. It is the intent of the General Assembly that there be no duplication of services or duties between these positions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 5 of this Act:

- (1) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures; and
- (2) "School employee" means any employee of the public schools of this Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

Health services shall be provided, within the health care professional's current scope of practice, in a school setting by:

- (1) A physician who is licensed under the provisions of KRS Chapter 311;
- (2) An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314; or
- (3) A school employee who is:
- (a) Delegated the responsibility to perform the service by a physician, registered nurse, or advanced registered nurse practitioner;
- (b) Trained by the delegating physician or delegating nurse for the specific health service for the specific recipient, if that health service is one that could be performed and delegated by the physician or nurse within the physician's or nurse's current scope of practice; and
- (c) Approved in writing by the delegating physician or delegating nurse. This approval shall state that the employee possesses sufficient training and skills to safely and effectively perform the health service. The school employee also shall sign the approval form and thus acknowledge receipt of training.

SECTION 5. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) A school employee shall not refuse to provide a health service if the employee:
- (a) Has been delegated the responsibility to perform the health service by a physician, registered nurse, or advanced registered nurse practitioner;
- (b) Has received training for the health service by a physician or nurse, if the service is within that physician's or nurse's current scope of practice; and
- (c) Has been approved in writing by the delegating physician or delegating nurse, as required in subsection (3)(c) of Section 4 of this Act.
- (2) A copy of the protocols and guidelines developed under subsection (2)(a) of Section 1 of this Act shall be made available to each school in the Commonwealth and shall be maintained by each school in the school's library.
- (3) If an employee has not been trained, supervised, and approved to perform a health service as required in subsection (3) of Section 4 of this Act, and in order to prevent a health service loss from affecting the student's attendance or program participation, the school district shall immediately make any necessary arrangement for the provision of the health service to the student. The school district shall continue with this arrangement until appropriate school personnel are adequately trained to provide the health service.
- (4) There shall be no cause for disciplinary action from school administrators, the state or local boards of education, or any licensing or certification board or agency as a result of a refusal under subsection (1) of this section.
- (5) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

The Committee Substitute to **HB 305** is as follows:

HB 305, AN ACT relating to the provision of health care services in schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) The position of education school nurse consultant is created within the Department of Education. This full-time position shall be filled by an individual who:
- (a) Holds, at a minimum, a bachelors degree in nursing with a masters degree in nursing or a related field from an accredited postsecondary institution; and

(b) Is a registered nurse who is licensed under the provisions of KRS Chapter 314.

(2) The duties of the position of education school nurse consultant shall include, but not be limited to:

- (a) Provision of technical assistance to school districts to develop, update, and use standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. These protocols and guidelines shall include, but not be limited to, the training of designated nonmedical school personnel, the delegation of nursing functions, consistent with administrative regulations promulgated by the Kentucky Board of Nursing, and appropriate documentation relating to these protocols;
- (b) Consultation, technical assistance, and development of quality improvement measures for the state and local boards of education, individual public schools, and local health departments;
- (c) Facilitation of statewide and local data collection and reporting of school health services;
- (d) Promotion of information and resources that relate to the provision of school health services; and
- (e) Coordination with the public health school nurse consultant, created under Section 2 of this Act, in completion of duties authorized in this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The position of public health school nurse consultant is created within the Department for Public Health. This full-time position shall be filled by an individual who:

- (a) Holds, at a minimum, a bachelor's degree in nursing with a master's degree in nursing or a related field from an accredited postsecondary institution; and
- (b) Is a registered nurse who is licensed under the provisions of KRS Chapter 314.

(2) The public health school nurse consultant shall assist the education school nurse consultant with the duties specified in Section 1 of this Act. It is the intent of the General Assembly that there be no duplication of services or duties between these positions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 5 of this Act:

- (1) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures, or the provision of services by a certified athletic trainer who is acting within the scope of practice permitted by his or her certification; and
- (2) "School employee" means any employee of the public schools of this Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

If health services are provided in a school setting, they shall be provided, within the health care professional's current scope of practice, in the school setting by any of the following, subject to school staffing requirements and protocols established under subsection (2)(a) of Section 1 of this Act:

- (1) A physician who is licensed under the provisions of KRS Chapter 311;
- (2) An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314;
- (3) A school employee who is:
 - (a) Delegated the responsibility to perform the service by a physician, registered nurse, or advanced registered nurse practitioner;
 - (b) Trained by the delegating physician or delegating nurse for the specific health service for the specific recipient, if that health service is one that could be performed and delegated by the physician or nurse within the physician's or nurse's current scope of practice; and
 - (c) Approved in writing by the delegating physician or delegating nurse. This approval shall state that the employee possesses sufficient training and skills to safely and effectively perform the health service. The school employee also shall sign the approval form and thus acknowledge receipt of training;
- (4) An occupational therapist who is licensed under the provisions of KRS Chapter 319A;
- (5) A physical therapist who is licensed under the provisions of KRS Chapter 327; or
- (6) Any other health professional who is licensed or certified under the provisions of the Kentucky Revised Statutes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) A school employee shall not refuse to provide a health service if the employee:

- (a) Has been delegated the responsibility to perform the health service by a physician, registered nurse, or advanced registered nurse practitioner;

- (b) Has received training for the health service by a physician or nurse, if the service is within that physician's or nurse's current scope of practice; and
- (c) Has been approved in writing by the delegating physician or delegating nurse, as required in subsection (3)(c) of Section 4 of this Act.
- (2) A copy of the protocols and guidelines developed under subsection (2)(a) of Section 1 of this Act shall be made available to each school in the Commonwealth and shall be maintained by each school in the school's library.
- (3) If an employee has not been delegated the responsibility to perform a health service, trained to perform a health service, and approved to perform a health service, as required in subsection (3) of Section 4 of this Act, and in order to prevent a health service loss from affecting the student's attendance or program participation, the school district shall immediately make any necessary arrangement for the provision of the health service to the student. The school district shall continue with this arrangement until appropriate school personnel are adequately trained to provide the health service.
- (4) There shall be no cause for disciplinary action from school administrators, the state or local boards of education, or any licensing or certification board or agency as a result of a refusal under subsection (1) of this section.
- (5) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.
- (6) If a school employee is designated to provide health services under this section or Section 4 of this Act, all liability for the provision of those services shall be the responsibility of the employer.

HB 373, AN ACT relating to a sick leave bank for local school district employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
 - (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
 - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
 - (c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and
 - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days.
- (2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave ~~herein~~ granted in this subsection may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.
- (3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district after June 30, 1985.
- (4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.
- (5) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon

the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

- (7) (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher or employee may receive donations of sick leave if:
 1. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days;
 2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician;
 3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
- (c) While ~~a teacher or an~~ employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- (9) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
- (10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

The Committee Substitute to **HB 373** is as follows:

HB 373, AN ACT relating to a sick leave bank for local school district employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
 - (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
 - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
 - (c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and
 - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days.
- (2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave ~~herein~~ granted in this subsection may be taken by a teacher on any ten (10) days

of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

- (3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district after June 30, 1985.
- (4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.
- (5) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- (7)
 - (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
 - (b) A teacher or employee may receive donations of sick leave if:
 1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
 - b. The teacher or employee suffers from a catastrophic loss to his or her personal property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
 2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician;
 3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
 - (c) While a teacher or an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
 - (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
 - (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- (9) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
- (10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

HCR 7, A CONCURRENT RESOLUTION confirming the appointment of Helen W. Mountjoy to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has reappointed Helen W. Mountjoy to represent the 2nd Supreme Court District on the Kentucky Board of Education for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Helen W. Mountjoy's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Helen W. Mountjoy meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Helen W. Mountjoy to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Helen W. Mountjoy, 449 Browns Valley Road, Utica, Kentucky 42376, in writing, of the General Assembly's action.

HCR 18, A CONCURRENT RESOLUTION confirming the appointment of Lydia Carol Gabbard to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Lydia Carol Gabbard as a member of the Kentucky Board of Education representing the Fifth Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Lydia Carol Gabbard's name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Lydia Carol Gabbard meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Lydia Carol Gabbard to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Lydia Carol Gabbard, 113 Stoneybrook Drive, Richmond, Kentucky 40475, in writing, of the General Assembly's action.

HCR 19, A CONCURRENT RESOLUTION confirming the appointment of Bill Weinberg to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Bill Weinberg as a member of the Kentucky Board of Education representing the Seventh Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Bill Weinberg's name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Bill Weinberg meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Bill Weinberg to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Bill Weinberg, Post Office Box 727, Hindman, Kentucky 41822, in writing, of the General Assembly's action.

HCR 20, A CONCURRENT RESOLUTION confirming the reappointment of Laken Cosby, Jr., to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has reappointed Laken Cosby, Jr., as a member of the Kentucky Board of Education representing the Fourth Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Laken Cosby, Jr.'s name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Laken Cosby, Jr., meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Laken Cosby, Jr., to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, in accordance with KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Laken Cosby, Jr., 2629 Algonquin Parkway, Louisville, Kentucky 40210, in writing, of the General Assembly's action.

HCR 21, A CONCURRENT RESOLUTION confirming the reappointment of Craig True to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has reappointed Craig True as a member of the Kentucky Board of Education representing the Sixth Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Craig True's name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Craig True meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Craig True to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Craig True, 10 Memory Lane, Fort Thomas, Kentucky 41075, in writing, of the General Assembly's action.

HCR 23, A CONCURRENT RESOLUTION confirming the appointment of Keith R. Travis to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Keith R. Travis as a member of the Kentucky Board of Education representing the First Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Keith R. Travis' name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Keith R. Travis meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Keith R. Travis to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Keith R. Travis, 4290 Lakeview Church Road, Benton, Kentucky 42025, in writing, of the General Assembly's action.

The Committee Substitute to **HCR 23** is as follows:

HCR 23, A CONCURRENT RESOLUTION confirming the appointment of Keith R. Travis to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed R. Keith Travis as a member of the Kentucky Board of Education representing the First Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered R. Keith Travis' name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that R. Keith Travis meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of R. Keith Travis to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and R. Keith Travis, 4290 Lakeview Church Road, Benton, Kentucky 42025, in writing, of the General Assembly's action.

The Committee Amendment No. 1 Title to **HCR 23** is as follows:

by amending the title to read as follows:

"A CONCURRENT RESOLUTION confirming the appointment of R. Keith Travis to the Kentucky Board of Education."

HCR 24, A CONCURRENT RESOLUTION confirming the reappointment of Jane A. Venters to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has reappointed Jane A. Venters as a member of the Kentucky Board of Education representing the Third Supreme Court District for a term expiring April 14, 2002; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of August 5, 1999, the Governor has delivered Jane A. Venters' name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Jane A. Venters meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Jane A. Venters to the Kentucky Board of Education for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Jane A. Venters, 302 North Maple Street, Somerset, Kentucky 42501, in writing, of the General Assembly's action.

The Committee on Transportation reported **HB 282**, with Committee Substitute and Committee Amendment attached thereto, **HJR 39**, with Committee Substitute and Committee Amendment attached thereto, **HJR 48**, **HJR 59**, and **HJR 66** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 282, AN ACT relating to special YMCA of Greater Louisville license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special YMCA of Greater Louisville license plate. The owner or lessee shall apply for the special YMCA of Greater Louisville license plate in the office of the county clerk in the county where the person lives. At the time the owner or lessee applies for a special YMCA of Greater Louisville license plate, the county clerk shall inform the owner or lessee that the person's application and state fee shall be sent to Frankfort to the Transportation Cabinet where it may be held for a period not to exceed one (1) year while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (2) of this section.
- (2) The Transportation Cabinet shall be required to print special YMCA of Greater Louisville license plates after the cabinet has received nine hundred (900) applications accompanied by a fifty dollar (\$50) state fee within a one (1) year period. The purpose of the fifty dollar (\$50) state fee is to offset computer programming costs incurred by the cabinet. If the cabinet has not received nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special YMCA of Greater Louisville license plate, the cabinet shall refund the fifty dollar (\$50) state fee to the appropriate applicants.
- (3) Subject to the provisions of subsection (2) of this section, the initial application fee for the nine hundred (900) special YMCA of Greater Louisville license plates printed by the Transportation Cabinet shall be sixty-three dollars (\$63). The sixty-three dollar (\$63) fee shall be divided as follows:

 - (a) The Transportation Cabinet shall receive a fee of fifty dollars (\$50) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The county clerk shall remit a ten dollar (\$10) fee to the Southwest Family Branch of the YMCA of Greater Louisville, subject to the provisions of subsection (9) of this section. The fee shall be used exclusively to provide financial assistance to financially disadvantaged families and individuals through the YMCA annual "Share the Care Campaign."
- (4) The initial application fee for each special YMCA of Greater Louisville license plate printed by the Transportation Cabinet in excess of nine hundred (900) shall be twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall be divided as follows:

 - (a) The Transportation Cabinet shall receive a fee of twelve dollars (\$12) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The county clerk shall remit a ten dollar (\$10) fee to the Southwest Family Branch of the YMCA of Greater Louisville, subject to the provisions of subsection (9) of this section. The fee shall be used exclusively to provide financial assistance to financially disadvantaged families and individuals through the YMCA annual "Share the Care Campaign."
- (5) A special YMCA of Greater Louisville license plate shall annually be issued a renewal registration decal during the owner's or lessee's birthmonth. The annual renewal fee shall be twenty dollars (\$20) and shall be divided as follows:

 - (a) The Transportation Cabinet shall receive a fee of twelve dollars (\$12) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The county clerk shall remit a five dollar (\$5) fee to the Southwest Family Branch of the YMCA of Greater Louisville, subject to the provisions of subsection (9) of this section. The fee shall be used exclusively to provide financial assistance to financially disadvantaged families and individuals through the YMCA annual "Share the Care Campaign."
- (6) Except as provided in this subsection, the special YMCA of Greater Louisville license plate shall be replaced on the same schedule that regular license plates are replaced by the Transportation Cabinet under KRS 186.240. A special YMCA of Greater Louisville license plate shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle issued the plate during the current licensing period.
- (7) A person seeking a special YMCA of Greater Louisville license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

- (8) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special YMCA of Greater Louisville license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a twelve dollar (\$12) state fee that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special YMCA of Greater Louisville license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special YMCA of Greater Louisville license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to Frankfort.
- (9) The Southwest Family Branch of the YMCA of Greater Louisville shall deposit all funds received from the sale of special YMCA of Greater Louisville license plates issued under subsections (4) and (5) of this section into a separate and special account. The account shall be used exclusively to provide financial assistance to financially disadvantaged families and individuals through the YMCA annual "Share the Care Campaign." The Transportation Cabinet shall audit the account annually to ensure the funds are being used to carry out the provisions of this section.
- (10) Special YMCA of Greater Louisville license plates shall be printed in the following manner:
- (a) Each plate shall be designed with the word "Kentucky" printed in black and centered at the top of the plate;
 - (b) The annual registration decal shall be placed in the upper right hand corner of the plate;
 - (c) Centered in the middle of the plate below the word "Kentucky" shall be a series of four (4) numbers beginning with "0001" printed in black;
 - (d) To the left of the four (4) numbers shall be the YMCA registered trademark logo printed in PMS 185 red and black;
 - (e) Centered under the logo shall be the letters "YMCA" and centered under "YMCA" shall be the phrase "We build strong kids, strong families, strong communities.";
 - (f) Centered under the four (4) numbers shall be the phrase "YMCA of Greater Louisville"; and
 - (g) Centered under the phrase "YMCA of Greater Louisville" shall be the county name.

The Committee Substitute to HB 282 is as follows:

HB 282, AN ACT relating to special YMCA of Greater Louisville license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special YMCA license plate in the office of the county clerk in the county where the person lives. At the time the owner or lessee applies for a special YMCA license plate, the person shall include with the application the initial state fee of fifty dollars (\$50). The county clerk shall inform the owner or lessee that the person's application and state fee shall be sent to Frankfort to the Transportation Cabinet where it may be held for a period not to exceed one (1) year while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (2) of this section.
- (2) The Transportation Cabinet shall be required to begin designing and printing special YMCA license plates after the cabinet has received nine hundred (900) applications accompanied by a fifty dollar (\$50) state fee within a one (1) year period. The purpose of the fifty dollar (\$50) state fee is to offset computer programming costs incurred by the cabinet. Unless the cabinet is requested in writing to the contrary, if the cabinet has not received nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special YMCA license plate, the cabinet shall refund the fifty dollar (\$50) state fee to the appropriate applicants.
- (3) Subject to the provisions of subsection (2) of this section, the total initial application fee for the first nine hundred (900) special YMCA license plates printed by the Transportation Cabinet shall be sixty-three dollars (\$63). The sixty-three dollar (\$63) fee shall be divided as follows:
- (a) The Transportation Cabinet shall receive a fee of fifty dollars (\$50) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The remaining ten dollar (\$10) fee collected from the applicant shall be remitted to the Transportation Cabinet to be used for YMCAs across the Commonwealth subject to the provisions of subsection (9) of this section.
- (4) The initial application fee for each special YMCA license plate printed by the Transportation Cabinet in excess of nine hundred (900) shall be twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall be divided as follows:
- (a) The Transportation Cabinet shall receive a fee of twelve dollars (\$12) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);

- (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The remaining ten dollar (\$10) fee collected from the applicant shall be remitted to the Transportation Cabinet to be used for YMCAs across the Commonwealth subject to the provisions of subsection (9) of this section.
 - (5) A special YMCA license plate shall annually be issued a renewal registration decal during the owner's or lessee's birthmonth. The annual renewal fee shall be twenty dollars (\$20) and shall be divided as follows:
 - (a) The Transportation Cabinet shall receive a fee of twelve dollars (\$12) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The remaining five dollar (\$5) fee collected from an applicant renewing an annual registration shall be remitted to the Transportation Cabinet to be used for YMCAs across the Commonwealth subject to the provisions of subsection (9) of this section.
 - (6) Except as provided in this subsection, the special YMCA license plate shall be replaced on the same schedule that regular license plates are replaced by the Transportation Cabinet under KRS 186.240. A special YMCA license plate shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle issued the plate during the current licensing period.
 - (7) A person seeking a special YMCA license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).
 - (8) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special YMCA license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a twelve dollar (\$12) state fee that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special YMCA license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special YMCA license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to Frankfort.
 - (9) All funds received by the Transportation Cabinet under subsection (3)(c), (4)(c), and (5)(c) of this section shall be deposited into a YMCA program fund that is established in the state road fund. Money in the YMCA program fund shall be used as provided in this subsection. If at the end of a fiscal year money remains in the YMCA program fund, it shall be retained in the fund and used as provided in this subsection and shall not revert to the road fund. All interest and income earned on money in the YMCA program fund shall be retained by the Transportation Cabinet to help offset the costs associated with administering this subsection.
 - (a) At the end of each fiscal year the cabinet shall, after deducting interest and income earned during the year, disburse all funds remaining in the YMCA program fund to the YMCA in each county where a YMCA is located. If a county has more than one (1) YMCA branch, the cabinet shall disburse the funds to the YMCA association representing all branches in the county. The YMCA association shall be responsible for equally distributing funds under this subsection to all YMCA branch offices within the county.
 - (b) The amount of money each county YMCA shall receive under this subsection shall be proportionate to the amount of money contributed to the YMCA program fund from sales of the special YMCA license plates in the county.
 - (c) A person wishing to purchase a special YMCA license plate who lives in a county that does not have a YMCA shall be permitted on the application form to designate a county with a YMCA where the proceeds from the person's purchase shall be credited for purposes of distribution under this subsection. The plate issued under this paragraph shall designate the county where the person's motor vehicle is registered, not the county designated on the application form to receive the proceeds from the person's purchase of the YMCA plate.
 - (10) Special YMCA license plates shall be printed in the following manner:
 - (a) Each plate shall be designed with the word "Kentucky" printed in black and centered at the top of the plate;
 - (b) The annual registration decal shall be placed in the upper right hand corner of the plate;
 - (c) Centered in the middle of the plate below the word "Kentucky" shall be a series of four (4) numbers beginning with "0001" printed in black;
 - (d) To the left of the four (4) numbers shall be the YMCA registered trademark logo printed in PMS 185 red and black;
 - (e) Centered under the logo shall be the letters "YMCA" and centered under "YMCA" shall be the phrase "We build strong kids, strong families, strong communities."; and

(f) Centered under the four (4) numbers shall be the county name.

The Committee Amendment No. 1 Title to **HB 282** is as follows:

On page 1, amend the title to read as follows: "An Act relating to special YMCA license plates".

HJR 39, A JOINT RESOLUTION directing the Transportation Cabinet to name KY 114 in Floyd County the "Middle Creek National Battlefield Parkway", to name KY 404 in Floyd County the "Floyd County Civil War Highway", and to name three bridges in Floyd County in honor of Colonel James A. Garfield, Brigadier General Humphrey Marshall, and the Middle Creek National Battleground.

WHEREAS, the Civil War was a defining moment in this great nation's history, a time when the very fate of the Union hung in the balance; and

WHEREAS, a strategic Civil War battle occurred on January 10, 1862, at Middle Creek in Floyd County, Kentucky; and

WHEREAS, the Battle of Middle Creek was the largest single Civil War battle in Eastern Kentucky; and

WHEREAS, the Confederate Forces in the Battle of Middle Creek were bravely led by Brigadier General Humphrey Marshall; and

WHEREAS, the Union Forces in the Battle of Middle Creek were led by Colonel James A Garfield, who would later become the 20th President of the United States; and

WHEREAS, Middle Creek Battleground was named a National Historic Landmark by the United States Department of the Interior, National Park Service in October, 1992; and

WHEREAS, it is fitting that we remember this battle and the heroic men who fought in it;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is directed to name KY 114 in Floyd County the "Middle Creek National Battlefield Parkway".

Section 2. That the Transportation Cabinet is directed to name KY 404 in Floyd County the "Floyd County Civil War Highway".

Section 3. That the Transportation Cabinet is directed to name the bridge on KY 404 over the Right Fork of Middle Creek in Floyd County the "Brigadier General Humphrey Marshall Bridge".

Section 4. That the Transportation Cabinet is directed to name the bridge on KY 114 over Middle Creek at KY 122 in Floyd County the "Colonel James A. Garfield Bridge".

Section 5. That the Transportation Cabinet is directed to name the bridge on KY 404 over the CSX Railway at KY 2555 in Floyd County the "Middle Creek National Battlefield Bridge".

Section 6. That the Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the routes described in Sections 1 to 5 of this Resolution to facilitate their erection upon the effective date of this Resolution.

Section 7. That the Clerk of the House is directed to transmit copies of this Resolution to the Secretary of the Transportation Cabinet and to the District Highway Engineer in Pikeville, Kentucky.

The Committee Substitute to **HJR 39** is as follows:

HJR 39, A JOINT RESOLUTION directing the Transportation Cabinet to name KY 114 in Floyd County the "Middle Creek National Battlefield Parkway", to name KY 404 in Floyd County the "Floyd County Civil War Highway", and to name three bridges in Floyd County in honor of Colonel James A. Garfield, Brigadier General Humphrey Marshall, and the Middle Creek National Battleground.

WHEREAS, the Civil War was a defining moment in this great nation's history, a time when the very fate of the Union hung in the balance; and

WHEREAS, a strategic Civil War battle occurred on January 10, 1862, at Middle Creek in Floyd County, Kentucky; and

WHEREAS, the Battle of Middle Creek was the largest single Civil War battle in Eastern Kentucky; and

WHEREAS, the Confederate Forces in the Battle of Middle Creek were bravely led by Brigadier General Humphrey Marshall; and

WHEREAS, the Union Forces in the Battle of Middle Creek were led by Colonel James A Garfield, who would later become the 20th President of the United States; and

WHEREAS, Middle Creek Battlefield was named a National Historic Landmark by the United States Department of the

Interior, National Park Service in October, 1992; and

WHEREAS, it is fitting that we remember this battle and the heroic men who fought in it;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is directed to name Kentucky Route 114 in Floyd County the "Middle Creek National Battlefield Parkway."

Section 2. That the Transportation Cabinet is directed to name Kentucky Route 404 in Floyd County the "Floyd County Civil War Highway."

Section 3. That the Transportation Cabinet is directed to name the bridge on Kentucky Route 404 over the Right Fork of Middle Creek in Floyd County the "Brigadier General Humphrey Marshall Bridge."

Section 4. That the Transportation Cabinet is directed to name the bridge on Kentucky Route 114 over Middle Creek at Kentucky Route 122 in Floyd County the "Colonel James A. Garfield Bridge."

Section 5. That the Transportation Cabinet is directed to name the bridge on Kentucky Route 114 over the CSX Railway at Kentucky Route 2555 in Floyd County the "Middle Creek National Battlefield Bridge."

Section 6. That the Transportation Cabinet shall immediately begin preparing the appropriate highway "brown" signs naming the routes described in Sections 1 to 5 of this Resolution to facilitate and coordinate their placement and erection with the Middle Creek Battlefield Foundation, Inc. upon the effective date of this Resolution.

Section 7. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to the Secretary of the Transportation Cabinet and to the District Highway Engineer in Pikeville, Kentucky.

The Committee Amendment No. 1 Title to **HJR 39** is as follows:

By amending the title to read as follows: "A JOINT RESOLUTION directing the Transportation Cabinet to name various roads and bridges in Floyd County in accordance with KRS 177.074."

HJR 48, A JOINT RESOLUTION directing the Transportation Cabinet to name KY 118 from US 421 to the Daniel Boone Parkway (the Hyden Spur) in Leslie County in honor of Tim Couch.

The memories of brisk autumn afternoons of the not too distant past are made sweeter because of this native son of Eastern Kentucky, who came out of the mountains of Appalachia to place the University of Kentucky among the pantheon of the nation's college gridiron elite, who has gone after too short a time to measure himself against the finest athletes in the world, and who, all the while, has represented his family, hometown, university, and state with aplomb and class: Tim Couch.

WHEREAS, the Commonwealth was deeply blessed when on July 31, 1977, Elbert and Janice Couch became the proud parents of a son, Timothy Scott Couch; and

WHEREAS, Tim Couch's athletic talent first garnered notice at Leslie County High School, where he was an All-State performer in both football and basketball; and

WHEREAS, Tim Couch was perhaps the finest high school football player ever produced in Kentucky, holding state and national high school career records with 872 pass completions, 12,104 passing yards, and 133 touchdown passes, and leading the Leslie County High School Eagles to a four year record of 38-13 and two trips to the Class AAA state semifinals; and

WHEREAS, Tim Couch, in his senior year of 1995, was named Kentucky's "Mr. Football", the Gatorade Circle of Champions "Kentucky Player of the Year", the USA Today "National Offensive Player of the Year", and was generally considered the best high school football player in the nation; and

WHEREAS, Tim Couch, after an intense recruiting battle that involved every major power in college football, decided to stay at home and help revive the flagging gridiron fortunes of the University of Kentucky Wildcats; and

WHEREAS, Tim Couch showed flashes of brilliance in his freshman season that were a foreshadowing of the two very special seasons to come; and

WHEREAS, Tim Couch, armed with the sophisticated "Air Raid" attack of new head coach Hal Mumme, set the college football world on fire during the 1997 season, engineering a monumental upset of Southeastern Conference power Alabama, marking the first time the Wildcats had beaten the Crimson Tide in 75 years; and

WHEREAS, because of his exploits during the 1997 season, Tim Couch was named honorable mention All-American by the Football News, second team All-SEC, and was a finalist for the Davey O'Brien Award, given to the nation's top quarterback; and

WHEREAS, Tim Couch continued his "Air Raid" on opponents in 1998, throwing for at least 300 yards in every game and leading the Wildcats to a 7-5 record and a trip to Kentucky's first New Year's Day bowl game in almost 50 years; and

WHEREAS, Tim Couch's achievements during the 1998 season earned him All-American honors from several sources,

unanimous first team All-SEC honors, and a fourth-place finish in the 1998 Heisman Memorial Trophy balloting; and

WHEREAS, at the conclusion of his collegiate career, Tim Couch had practically rewritten the Kentucky and Southeastern Conference record books, holding almost every major single game, season, and career passing record; and

WHEREAS, Tim Couch, feeling that he must continue to test himself against the best, decided to forego his final year of eligibility at Kentucky and was subsequently selected by the expansion Cleveland Browns with the first overall selection of the 1999 NFL Draft; and

WHEREAS, Tim Couch has continued his pattern of preternatural athletic success in the professional ranks, being named Cleveland's starting quarterback in just his second professional game and being named the NFL's "Offensive Player of the Month" for October 1999, justifying Cleveland's decision to hitch its wagon to Tim Couch's star; and

WHEREAS, Tim Couch was voted Kentucky's "Sportsman of the Year" in a Lexington Herald-Leader statewide poll of sportswriters and broadcasters in both 1995 and 1997; and

WHEREAS, both the Lexington Herald-Leader and Sports Illustrated magazine named Tim Couch one of the fifty most significant Kentucky sports figures of the 20th century; and

WHEREAS, in addition to Tim Couch's athletic exploits, he has shown a willingness to assist in charitable and civic organizations; and has given his time to such causes as the DARE program and the Children's Miracle Network; and

WHEREAS, Tim Couch has brought honor and glory to himself, his family, his university, his state, and his hometown through his athletic feats and his service to the community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is directed to name KY 118 from US 421 to the Daniel Boone Parkway in Leslie County (the Hyden Spur) the "Tim Couch Pass".

Section 2. That the Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Tim Couch Pass" to facilitate their erection upon the effective date of this Resolution.

Section 3. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to Tim Couch, to the Secretary of the Transportation Cabinet, and to the District Highway Engineer in Manchester, Kentucky.

HJR 59, A JOINT RESOLUTION directing the Transportation Cabinet to name KY 11 from US 421 to the town of Oneida in Clay County the "James Anderson Burns Highway".

WHEREAS, James Anderson Burns, a native of West Virginia, came to Kentucky in the late 1800's; and

WHEREAS, James Anderson Burns, known across the nation as "Burns of the Mountains", was such a famous Chautauqua speaker that he was considered one of the finest speakers of his day; and

WHEREAS, James Anderson Burns' life was one of adventure, excitement, and violent contrast; and

WHEREAS, James Anderson Burns came to reject the feuds that were all too prevalent in the mountains at that time, feeling that God had called him to be an instrument through which the feuds were to be ended; and

WHEREAS, James Anderson Burns was determined to substitute the opportunities of education for the violence of feuding; and

WHEREAS, James Anderson Burns opened Oneida Baptist Institute in 1900 to help expand educational opportunities; and

WHEREAS, Oneida Baptist Institute has grown beyond Mr. Burns' wildest expectations and dreams with the simple mission of teaching God's love; and

WHEREAS, through the last 100 years, the students who have passed through the halls of Oneida Baptist Institute have not only been taught God's love, but more importantly, have been shown His love; and

WHEREAS, Oneida Baptist Institute was opened to help the needy children of the mountains, but has since reached the four corners of the earth to help the young people of the world; and

WHEREAS, students of Oneida Baptist Institute have gone on to outstanding, productive careers in all fields and include former Governor Bert T. Combs; and

WHEREAS, through the last 100 years, and for the future, the commitment of Oneida Baptist Institute remains the same: to provide all who enter an "Education for Time and Eternity";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is directed to name KY 11 from US 421 to the town of Oneida in Clay County the "James Anderson Burns Highway".

Section 2. That the Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "James Anderson Burns Highway" to facilitate their erection upon the effective date of this Resolution.

Section 3. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to Dr. Wesley Underwood, President of Oneida Baptist Institute, to the Secretary of the Transportation Cabinet, and to the District Highway Engineer in Manchester, Kentucky.

HJR 66, A JOINT RESOLUTION directing the Transportation Cabinet to name the new bridge on Kentucky Route 3071 near the community of Moranburg in Mason County the "John P. Loyd Memorial Bridge."

WHEREAS, Mason County's native son John P. Loyd has slipped the bonds of earth to join his Almighty in eternal bliss; and

WHEREAS, John P. Loyd was a life-long resident of the community of Moranburg in Mason County; and

WHEREAS, John P. Loyd was a dedicated public servant who selflessly served the citizens of Mason County as a County Commissioner on the Fiscal Court; and

WHEREAS, while serving as County Commissioner, John P. Loyd was appointed as County Judge/Executive upon the death of Mr. Harry Lowe; and

WHEREAS, John P. Loyd was elected to three terms as County Judge/Executive by the citizens of Mason County; and

WHEREAS, Judge Loyd tirelessly championed the needs of the less advantaged through his advocacy for a better public health system; and

WHEREAS, during his tenure, Judge Loyd reorganized the Mason County Health Department to better serve citizens countywide; and

WHEREAS, Judge Loyd's compassion and humanitarian efforts were especially focused upon young people, evidenced by his diligence in creating and staffing a county welfare office; and

WHEREAS, Judge Loyd also ensured the citizens of Mason County enjoyed good roads with easy access to work and personal activities by paving as many county roads as possible during his tenure;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. In honor and tribute to Judge John P. Loyd, the Transportation Cabinet shall name the new bridge on Kentucky Route 3071 in Mason County, located approximately one-half mile north of the intersection of Kentucky Route 3071 and Kentucky Route 3056 near the community of Moranburg the "John P. Loyd Memorial Bridge."

Section 2. The Transportation Cabinet shall erect memorial signs on each side of the bridge honoring John P. Loyd within thirty (30) days of the effective date of this Resolution.

Section 3. A copy of this Resolution is to be transmitted to Secretary James Codell, Kentucky Transportation Cabinet, and to Chief District Engineer, Jim Rummage, for the District 9 Highway Office in Flemingsburg, Kentucky.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 363**, with Committee Substitute attached thereto, **HB 424**, and **HB 454** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 363, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.245 is amended to read as follows:

- (1) The candidate for office ~~[other than the offices of Governor and Lieutenant Governor,]~~ receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.
- (2) ~~[A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.]~~
- (3) ~~A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.~~
- (4) ~~The slate of candidates receiving the highest number of votes in a runoff primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.~~

- ~~(5) Subject to the foregoing provisions relating to a runoff primary, if two (2) or more slates of candidates in a primary election are found to have received the next highest and equal number of votes for the nomination for election to the offices of Governor and Lieutenant Governor, the slate which will appear on the ballot in a runoff primary shall be determined by lot in the manner the state board directs, in the presence of not less than three (3) other persons.~~
- ~~(6) Subject to the foregoing provisions relating to a runoff primary, If two (2) or more candidates or slates of candidates in a runoff primary or primary election are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.~~

Section 2. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party on December 31 immediately preceding the primary election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ~~Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.~~

Section 3. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted and persons who qualify under subparagraph 5. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.
- (a) The following voters may apply to cast their votes by absentee ballot at any time not later than the close of business hours seven (7) days before the election:
1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime; and
 5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
- (c) Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before

the election prescribed above.

- (d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
 - (e) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (f) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
 - (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election ~~and fifteen (15) days prior to each runoff primary~~.
 - (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
 - (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 4. KRS 117.275 is amended to read as follows:

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- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.
- (4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- ~~(5) In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty four (24) hours of making his determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.~~
- ~~(6)~~ As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- ~~(6)(7)~~ In primary elections, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

~~(7)(8)~~ If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 5. KRS 117.295 is amended to read as follows:

- (1) For a period of ten (10) days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of a voting machine, and all the data and figures shall be examined by the court, judge or committee in the presence of the officer having the custody of the machine. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting machines shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the machines for a succeeding primary, ~~runoff primary,~~ regular, or special election, but in no event shall the order compel that the machines remain locked to a time within thirty (30) days next preceding any approaching primary, ~~runoff primary,~~ regular, or special election.

- (2) During the period when the machine is required to be kept locked, the keys thereto shall remain in the possession of the county board of elections. After that period, it shall be the duty of the county board of elections to return the keys to the custody of the county clerk.

Section 6. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, and primary, ~~and runoff primary,~~ elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.
- (4) ~~[A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.]~~ The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.

- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

- (7) All public schools shall be closed on the day of any regular election.

Section 7. KRS 118.035 is amended to read as follows:

- (1) The polls shall be opened on the day of a primary, ~~runoff primary,~~ special election, or regular election at 6 a.m., prevailing time, and shall remain open until each voter who is waiting in line at the polls at 6 p.m., prevailing time, has voted. At 6 p.m., prevailing time, if voters are waiting at the polls to vote, the precinct election sheriff shall announce that a voter wishing to vote must immediately get in line. When all voters waiting at the polls at that time are in line, the precinct election sheriff shall then determine which voter is the last in line, and that voter shall be the last voter permitted to vote. The precinct election sheriff shall wait in line with the last voter who shall be permitted to vote until that voter has voted and shall inform a voter who subsequently arrives at the polls that no one shall be permitted to vote after the last voter in line at 6 p.m., prevailing time. After the last voter waiting in line at 6 p.m., prevailing time, has voted, the polls

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shall then be closed.

- (2) As provided in Section 148 of the Constitution of Kentucky, any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute an absentee ballot, be entitled to absent himself from any services or employment in which he is then engaged or employed for a reasonable time, but not less than four (4) hours on the day he appears before the clerk to request an application for or to execute an absentee ballot, during normal business hours of the office of the clerk or to cast his ballot on the day of the election between the time of opening and closing the polls. The employer may specify the hours during which an employee may absent himself.
- (3) No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote, under circumstances which did not prohibit him from voting, may be subject to disciplinary action.
- (4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. The person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

Section 8. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) ~~Not less than twenty five (25) days before a runoff primary;~~
 - ~~(c)~~ Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph ~~(c)~~~~((d))~~ of this subsection; and
 - ~~(c)~~~~((d))~~ Not later than the Thursday after the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of

Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 9. KRS 118.225 is amended to read as follows:

- (1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.
- (2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary~~[, twenty-six (26) days before a runoff primary,]~~ or the Thursday following the second Tuesday in August preceding the general election.
- (3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary or the Thursday following the second Tuesday in August preceding the general election.
- (4) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 10. KRS 121.015 is amended to read as follows:

As used in this chapter:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Election" means any primary~~[, runoff primary,]~~ regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary~~[, runoff primary,]~~ regular, or special election shall be considered a separate election;
- (3) "Committee" includes the following:
 - (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;
 - (b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);
 - (c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;
 - (d) An executive committee of a political party; and
 - (e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;
- (4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars (\$100) shall be reported to the registry;
- (5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or

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election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

- (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;
- (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
- (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
- (d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

- (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;
- (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
- (c) An independent expenditure by any individual or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents; and

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 11. KRS 121.150 is amended to read as follows:

- (1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars (\$500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.
- (2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues

committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

- (3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars (\$50), and all anonymous contributions in excess of fifty dollars (\$50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.
- (4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars (\$50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars (\$50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.
- (5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars (\$100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.
- (6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars (\$1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars (\$100) from any person or more than two hundred dollars (\$200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars (\$1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars (\$100) and no permanent committee or contributing organization shall contribute more than two hundred dollars (\$200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.
- (7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.
- (8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.
- (9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.
- (10) No person shall contribute more than one thousand five hundred dollars (\$1,500) to all permanent committees and contributing organizations in any one (1) year.
- (11) No person shall contribute more than two thousand five hundred dollars (\$2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars (\$1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.
- (12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.
- (13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars (\$50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars (\$25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars (\$10,000) in any one (1) election.

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- (14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.
- ~~(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slate of candidates shall contribute for runoff primary election expenses after the date of the runoff primary.~~
- (16) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.
- ~~(16)(17)~~ Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.
- ~~(17)(18)~~ Nothing in subsections (14) to ~~(16)(17)~~ of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.
- ~~(18)(19)~~ The provisions of subsections (14) and ~~(15)(16)~~ of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsection (16)~~subsections (15) and (17)~~ of this section shall apply only to those candidates or slates of candidates in a ~~runoff primary or~~ special election which shall be conducted subsequent to January 1, 1993.
- ~~(19)(20)~~ A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, ~~runoff primary election,~~ regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.
- ~~(20)(21)~~ No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars (\$50,000).
- ~~(21)(22)~~ No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.
- ~~(22)(23)~~ Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.
- ~~(23)(24)~~ In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).
- ~~(24)(25)~~ No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.
- ~~(25)(26)~~ (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars (\$10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the

election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

- (b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

~~(26)~~~~(27)~~ No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 12. KRS 121.180 is amended to read as follows:

- (1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.
- (b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars (\$1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.
- (c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.~~For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election.~~ For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election,~~or runoff primary, if one is held,~~ except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.
- (d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who

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received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.
- (e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.
- (f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.
- (g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.
- (j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.
- (k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.
- (l) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars (\$500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.
- (2) (a) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:
1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary~~[- runoff primary if slates of candidates of that party participate,]~~ and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.
- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:
1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For each contribution in excess of one hundred dollars (\$100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
 3. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 4. The total amount of cash contributions received during the reporting period; and
 5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and

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fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;

2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
 3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.
- (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.
- (6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
- (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 - (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 - (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.
- (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end

of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
 - (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;
 - (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars (\$100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(5)(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.
- (11)
 - (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.
 - (b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.
 - (c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary~~, runoff primary,~~ and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.
 - (d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.
 - (e) Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

Section 13. KRS 121.220 is amended to read as follows:

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- (1) Each candidate, slate of candidates, and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate, slate of candidates, or committee. The candidate, slate of candidates, or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, slate of candidates, or committee participates. Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, slate of candidates, or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate, slate of candidates, or committee files the name of his or its campaign treasurer.
- (2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." For each deposit, the campaign treasurer or deputy campaign treasurer shall retain a statement showing the name and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee for each contribution of any amount made by a permanent committee, and the full name, address, employer of each other contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and occupation of each contributor of more than one hundred dollars (\$100) and the amount contributed. Cash contributions shall be accompanied by the same receipt form. The campaign treasurer or deputy campaign treasurer for a slate of candidates or a slate's campaign committee shall comply with the requirements of KRS 121A.080~~(5)(6)~~.

Section 14. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Fund" means the election campaign fund;
- (3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;
- (4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;
- (5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary ~~or runoff primary~~ election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount~~; "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;~~
- (6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;
- (7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;
- (8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;
- (9) "Committee" includes the following:
 - (a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;
 - (b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);

- (c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties and which functions on a regular basis throughout the year;
 - (d) An executive committee of a political party; and
 - (e) "Exploratory committee," which means a committee formed by one (1) or more persons which is registered pursuant to KRS 121.170 to accept contributions and make expenditures for the purpose of determining the feasibility of forming a slate of candidates for Governor and Lieutenant Governor or of determining the composition of a slate of candidates for Governor and Lieutenant Governor;
- (10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars (\$100) shall be reported to the registry;
- (11) (a) "Contribution" means any:
- 1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;
 - 2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;
 - 3. Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services, if the person furnishing the goods, advertising, or services paid another person for their provision; or
 - 4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization, if the person making the payment paid another person for their utilization.
- (b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:
- 1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;
 - 2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars (\$300);
 - 3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 - 4. An independent expenditure by any individual or permanent committee;
- (12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and
- (13) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 15. KRS 121A.020 is amended to read as follows:

- (1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.
- (2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080~~(5)~~~~(6)~~, 118.255(3), and 121A.015(5).

- (3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.
- (4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.
- (5) In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3., all slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry not later than five (5) days after the last day of the calendar month following the formation and registration of the committee or registration of the fundraiser and not later than five (5) days after the last day of each calendar month thereafter until the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected when reports shall be filed not later than three (3) days after the fifty-sixth, forty-second, twenty-eighth, and fourteenth days preceding the primary or regular election. All contributions received by a slate of candidates as of the last day of each reporting period shall be included on the report for that period regardless of whether the contributions have been deposited in the slate's campaign account. ~~Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary.~~ All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports every thirty (30) days thereafter until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4). All reports required by this subsection shall include all contributions deposited into and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.
- (6) After each primary ~~each runoff primary~~ and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.
- (7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 16. KRS 121A.030 is amended to read as follows:

- (1) A qualifying slate of candidates for Governor and Lieutenant Governor that receives transfers from the fund may make campaign expenditures which, in the aggregate, including the expenditure of transfers from the fund, shall not exceed one million eight hundred thousand dollars (\$1,800,000) in connection with a primary election campaign and one million eight hundred thousand dollars (\$1,800,000) in connection with a regular election campaign, subject to the provisions of KRS 121A.080(3) and (4) ~~and (5), and three hundred thousand dollars (\$300,000) in connection with a runoff primary campaign.~~
- (2) The expenditure limit amounts established in subsection (1) of this section shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.
- (3) No qualifying slate of candidates for Governor and Lieutenant Governor that receives a transfer from the fund or that is otherwise subject to expenditure limitations shall exceed the expenditure limitations of subsection (1) of this section through an additional reported or unreported expenditure by any person, committee, or contributing organization which does not qualify as an independent expenditure.
- (4) A slate of candidates for Governor and Lieutenant Governor that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit that was not rescinded pursuant to KRS 121A.040(4) may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election. A slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund pursuant to KRS 121A.040(4) may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election up to a maximum of one hundred fifty thousand dollars (\$150,000) in any one (1) election.
- (5) No slate of candidates for Governor and Lieutenant Governor shall knowingly accept any other campaign contribution during the twenty-eight (28) days immediately preceding a primary or regular election ~~and during the fourteen (14) days immediately preceding a runoff primary~~ except:
 - (a) A qualifying slate of candidates that has elected to become eligible for fund transfers or who may in the future elect to become eligible for fund transfers shall be released from expenditure limitations following a certification by the registry pursuant to KRS 121A.080 (3) or (4) ~~or (5)~~ that a slate of candidates that has not elected to become eligible for fund transfers has received contributions or made expenditures in excess of the expenditure limits provided in subsection (1) of this section; or

- (b) The matching ratio of fund transfers established in KRS 121A.060(3)(c) has been reduced by the registry pursuant to KRS 121A.080(2)~~(3)~~. If the registry reduces the matching ratio of fund transfers, a qualifying slate of candidates that has elected to become eligible for fund transfers or that may in the future elect to become eligible for fund transfers, may accept aggregate qualifying contributions which, when added to the maximum threshold qualifying amount established in KRS 121A.060(1) and the amount equal to the reduced matching ratio of fund transfers shall not exceed the expenditure limit established in subsection (1) of this section, unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(3) or (4)~~or (5)~~.

Section 17. KRS 121A.040 is amended to read as follows:

- (1) Each slate of candidates for Governor and Lieutenant Governor shall file with the registry a statement of intent to accept or to reject a transfer from the election campaign fund. The statement shall be filed not later than the deadline for filing nomination papers.
- (2) A qualifying slate of candidates that intends to accept a transfer shall swear that the slate and the slate's authorized agents have complied with and will continue to comply with applicable contribution and expenditure limits.
- (3) A slate of candidates shall designate in the statement of intent whether the slate will accept or reject a transfer in either the primary or the regular election. A qualifying slate of candidates that receives a transfer from the fund in either the primary or regular election shall be bound by the contribution and expenditure limits of KRS 121A.030 and 121A.050 throughout the campaign. A slate of candidates that rejects expenditure limitations in a primary shall not be eligible to receive a transfer from the fund in ~~a runoff primary or~~ the regular election. A slate of candidates that accepts expenditure limitations in a primary shall not reject expenditure limitations in a regular election.
- (4)
 - (a) Prior to the payment by the registry of either a primary election transfer or a regular election transfer, a slate of candidates may rescind its statement of acceptance by filing a notice rescinding its acceptance not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.
 - (b) A slate of candidates may rescind its statement of rejection if it has not received contributions or made expenditures in excess of the expenditure limit established by KRS 121A.030(1) by filing a notice rescinding its rejection not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

Section 18. KRS 121A.060 is amended to read as follows:

- (1) The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars (\$300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars (\$600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(3) or (4)~~or (5)~~. A qualifying slate which discovers that it has received qualifying contributions in excess of the maximum threshold qualifying amount shall, without penalty, dispose of qualifying contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors. The excess contributions returned to the contributors shall not be considered as qualifying contributions and shall not be matched by transfers from the fund. After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers, the threshold qualifying amounts shall be increased or decreased accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The registry shall make the adjustments in the threshold qualifying amounts in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.
- (2) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.
- (3) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:
 - (a) A statement of intent accepting maximum expenditure limitations;
 - (b) A copy of the slate's nomination papers;
 - (c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and
 - (d) Any other information reasonably necessary that is required by the registry.

- (4) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.
- (5) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) working days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.
- (6) A separate determination and certification shall be made for a primary and a regular election.
- (7) The certification issued by the registry shall indicate:
 - (a) Whether a slate of candidates is eligible to receive a transfer; and
 - (b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.
- (8) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.
- (9) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:
 - (a) State the reasons why the slate of candidates is not eligible to receive a transfer; and
 - (b) What action, if any, the slate of candidates may take to qualify for a transfer.
- (10) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.
- (11) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.
- ~~(12) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).~~
- ~~(13) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, qualifying slates may independently qualify for subsequent transfers in that election without regard to the ability of another qualifying slate in that election to qualify for subsequent transfers in that election.~~

Section 19. KRS 121A.080 is amended to read as follows:

- (1) If the registry certifies that a qualifying slate of candidates is eligible to receive a transfer from the fund, the slate may submit a transfer entitlement voucher to the registry, complying with the procedures of subsection ~~(6)~~~~(7)~~ of this section. Qualifying slates of candidates may receive transfers from the fund according to the matching ratio and threshold levels of qualifying contributions received specified in KRS 121A.060(3)(c) and 121A.060(1), respectively. Subject to subsections ~~(3)~~~~(4)~~ and ~~(4)~~~~(5)~~ of this section, a transfer entitlement voucher may document total qualifying contributions of not less than three hundred thousand dollars (\$300,000) but not more than six hundred thousand dollars (\$600,000) for a primary or regular election for receipt of total fund transfers equal to twice the amount of qualifying contributions documented. A qualifying slate may submit multiple transfer entitlement vouchers as additional qualifying contributions are received in an election, but the maximum amount of fund transfers a slate may receive in a primary or regular election shall not exceed one million two hundred thousand dollars (\$1,200,000), subject to the provisions of subsections ~~(3)~~~~(4)~~ and ~~(4)~~~~(5)~~ of this section.
- ~~(2) The fund transfer which a qualifying slate of candidates for Governor and Lieutenant Governor in a runoff primary may receive shall be three hundred thousand dollars (\$300,000).~~
- ~~(3) The fund transfer amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment annually, beginning in 1996, and in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election. If the registry makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that the existing appropriations in the fund are insufficient to cover the anticipated fund transfers, the registry shall reduce the matching ratio to the ratio the registry determines so as not to exceed the amount of the fund. If the matching ratio is reduced for a primary election, it shall be applied retroactively to all transfers made to qualifying slates of candidates in the primary election. If the matching ratio is reduced for a regular election, it shall be applied retroactively to all transfers made to qualifying slates of candidates in the regular election.~~

- ~~(3)~~~~(4)~~(a) If the registry makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that in the course of a primary election~~, runoff primary election,~~ or regular election campaign a slate of candidates for Governor and Lieutenant Governor that has not accepted the provisions of this chapter has received contributions or made expenditures in excess of the expenditure limit as provided in KRS 121A.030(1), the registry shall certify that those slates of candidates that have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from expenditure limitations and may receive and submit for fund transfers qualifying contributions in excess of six hundred thousand dollars (\$600,000). Slates of candidates released from expenditure limitations in a primary or regular election shall continue to be eligible to receive transfers from the fund~~. A slate of candidates that is released from expenditure limitations in a runoff primary shall not be eligible for transfers from the fund in excess of three hundred thousand dollars (\$300,000), but shall be eligible to accept qualifying contributions for the runoff primary~~;
- (b) The registry shall conduct a public hearing within three (3) days after any report submitted to the registry by a campaign committee of a slate of candidates indicates that the slate of candidates has, or may have, received contributions or made expenditures in excess of the expenditure limits as provided in KRS 121A.030(1). The registry shall issue a ruling not later than seven (7) days after the public hearing; and
- (c) A public hearing shall be conducted within three (3) days upon petition to the registry by a slate of candidates that, based upon its knowledge and belief, another slate of candidates has, or may have, received contributions in excess of the expenditure limitations as provided in KRS 121A.030(1). The registry shall issue a ruling not later than seven (7) days after the public hearing.
- ~~(4)~~~~(5)~~ Nothing in this section shall prevent any slate of candidates from notifying the registry in writing that its campaign committee has received contributions or made expenditures in excess of the expenditure limitations as provided in KRS 121A.030(1). In that case, no public hearing shall be held and the registry shall certify that those slates of candidates who have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers for that election shall be released from expenditure limitations for that election and shall continue to be eligible to receive transfers from the fund if qualified by law.
- ~~(5)~~~~(6)~~ A slate of candidates shall establish a separate candidate campaign account for each primary~~, runoff primary,~~ and regular election in which it participates. The unexpended balance of contributions and fund transfers in a candidate campaign account of a slate of candidates which remains after all financial obligations of the particular election for which the account is established have been satisfied shall be forwarded to the registry for deposit in the fund when the account is closed. The payment to the fund shall be made not later than ten (10) working days after the candidate campaign account for a particular election is closed. Funds in the candidate campaign account of a slate of candidates shall be expended only for expenses incurred in the particular election for which the account is established and shall not be used to pay expenses incurred in any other election or for any other purpose.
- ~~(6)~~~~(7)~~ To receive fund transfers for which it is eligible, each qualifying slate of candidates shall submit to the registry at the times and in the form and manner the registry may require, a transfer entitlement voucher. The voucher shall include the full name of all persons making a contribution to the campaign committee of the slate of candidates together with the date, the exact amount of the contribution, the specific address of the contributor, the congressional district in which the contributor resides, the occupation and employer of the contributor and the spouse of the contributor, or, if the contributor or the spouse of contributor is self-employed, the name under which he is doing business.
- ~~(7)~~~~(8)~~ Within three (3) working days of the receipt of the voucher, the registry shall:
- (a) Make a determination, according to the procedures the registry may establish by administrative regulation, whether each contribution enumerated on the voucher is consistent with the provisions of this chapter;
 - (b) Certify for payment to the qualifying slate of candidates the amount of fund transfer for which it is eligible; and
 - (c) Promptly upon certification, issue a warrant on the fund for a transfer to the qualifying slate of candidates or its authorized treasurer in the amount certified by the registry.
- ~~(8)~~~~(9)~~ For the purpose of financing primary election campaigns, the registry shall make no transfer to a qualifying slate of candidates entitled to transfers from the fund earlier than January 1 of a year in which the Governor and Lieutenant Governor are elected.
- ~~(9)~~~~(10)~~ Transfers from the fund for a regular election campaign shall not be made earlier than the date the results of the primary election preceding the regular election of a year in which the Governor and Lieutenant Governor are elected are certified. If a qualifying slate of candidates is unopposed in a primary election, or has no opposition that has received contributions of not less than the threshold qualifying amount for the primary election, the registry shall make no transfer to that slate from the fund for the primary election. If a qualifying slate of candidates is unopposed in a regular election, or has no opposition that has received contributions of not less than the minimum threshold qualifying amount for the regular election, the registry shall make no transfer to that slate from the fund for the regular election.
- ~~(10)~~~~(11)~~ If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death,

disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry not later than the deadline for printing primary election ballots, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a vacancy occurs in a slate of candidates after the ballots are printed for the primary election, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a replacement for a vacant candidate is made after the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, notices informing the voters of the change in the composition of the slate shall be posted at each precinct polling place.

~~(11)~~~~(12)~~ The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

~~(12)~~~~(13)~~ If during the course of a primary or regular election, a qualifying slate of candidates withdraws, is otherwise removed from the ballot, becomes the only slate of candidates for a party nomination or election on the ballot, or if both candidates on the slate die, the registry shall certify and pay on vouchers previously submitted by that slate, but any subsequent vouchers submitted by that slate shall not be certified nor shall transfers be made.

~~(13)~~~~(14)~~ The registry shall not certify any contribution made to a qualifying slate of candidates entitled to transfers from the fund, which, when added to other contributions made by the same contributor to the slate in connection with the primary election and in connection with the regular election, violates the provisions of KRS 121A.050 or 121.150.

~~(14)~~~~(15)~~ The registry shall perform a continuing audit of all slates of candidates for Governor and Lieutenant Governor to ensure that they are in compliance with this chapter and the election laws of the Commonwealth.

Section 20. KRS 121A.100 is amended to read as follows:

- (1) Any qualifying slate of candidates that elects to receive a transfer from the fund shall participate preceding any primary, ~~runoff primary, if one is held,~~ and regular election in which it participates, in a year in which the Governor and Lieutenant Governor are elected, in a reasonable number of televised candidate forums or debates managed and designed by the Kentucky Authority for Educational Television in a manner to ensure participation by all slates of candidates. However, a qualifying slate of candidates that elects to receive a transfer from the fund shall not be required to participate in more than six (6) televised candidate forums or debates preceding a primary, ~~one (1) preceding a runoff primary,~~ or six (6) preceding a regular election. The authority shall make the televised candidate forums or debates available at no charge to all other media. The authority shall promulgate administrative regulations necessary to implement the requirements of this subsection.
- (2) All programming decisions concerning televised candidate forums or debates shall be the ultimate responsibility of the Kentucky Authority for Educational Television. The authority shall maintain editorial integrity in accordance with accepted public broadcasting principles. No appointed or elected state officeholder or any other person shall directly or indirectly attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any person assigned responsibility for candidate forum or debate programming decisions no alternative but to comply with the wishes of the officeholder or person. Persons assigned candidate forum or debate programming decisions shall be free of obligation or the appearance of obligation to any interest other than the public right to know. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any programming decision he considers to be an abridgement of his legal rights.
- (3) The registry shall promulgate administrative regulations which prescribe the grounds for which failure of a qualifying slate of candidates to participate in any of the televised candidate forums or debates required by subsection (1) of this section shall be excused and the process by which a qualifying slate of candidates shall inform the registry of the grounds for its failure to participate.
- (4) If the registry determines that failure of a qualifying slate of candidates to participate in any televised candidate forum or debate required by subsection (1) of this section was not justified, no fund transfer shall be made to the slate for that election if it shall be otherwise qualified to receive one. If the registry determines that a slate that has already received a fund transfer has unjustifiably failed to participate in any required televised candidate forum or debate, the slate's campaign committee shall reimburse the fund the amount of the transfer within thirty (30) days of the date on which the registry's determination becomes final. If the slate's campaign committee has not reimbursed the fund the amount of the transfer within the thirty (30) day period, the slate shall be personally liable to the fund for the transfer amount to be reimbursed. A slate of candidates may appeal an adverse ruling by the registry within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

The Committee Substitute to **HB 363** is as follows:

HB 363, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.245 is amended to read as follows:

- (1) The candidate for office ~~other than the offices of Governor and Lieutenant Governor,~~ receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.
- ~~[(2) A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.]~~
- ~~[(3) A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.]~~
- ~~[(4)] The slate of candidates receiving the highest number of votes in a [runoff] primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.~~
- ~~[(5) Subject to the foregoing provisions relating to a runoff primary, if two (2) or more slates of candidates in a primary election are found to have received the next highest and equal number of votes for the nomination for election to the offices of Governor and Lieutenant Governor, the slate which will appear on the ballot in a runoff primary shall be determined by lot in the manner the state board directs, in the presence of not less than three (3) other persons.]~~
- ~~[(6) Subject to the foregoing provisions relating to a runoff primary,]~~
- (2) If two (2) or more candidates or slates of candidates in a ~~[runoff primary or]~~ primary election are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.

Section 2. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party on December 31 immediately preceding the primary election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ~~[Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.]~~

Section 3. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted and persons who qualify under subparagraph 5. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.
 - (a) The following voters may apply to cast their votes by absentee ballot at any time not later than the close of business hours seven (7) days before the election:
 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;

3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime; and
 5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
 - (c) Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.
 - (d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
 - (e) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (f) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter

within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election~~and fifteen (15) days prior to each runoff primary~~.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 4. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.
- (4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the

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precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.

- (5) ~~In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.~~
- (6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- ~~(6)(7)~~ In primary elections, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.
- ~~(7)(8)~~ If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 5. KRS 117.295 is amended to read as follows:

- (1) For a period of ten (10) days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of a voting machine, and all the data and figures shall be examined by the court, judge or committee in the presence of the officer having the custody of the machine. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting machines shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the machines for a succeeding primary, ~~runoff primary,~~ regular, or special election, but in no event shall the order compel that the machines remain locked to a time within thirty (30) days next preceding any approaching primary, ~~runoff primary,~~ regular, or special election.
- (2) During the period when the machine is required to be kept locked, the keys thereto shall remain in the possession of the county board of elections. After that period, it shall be the duty of the county board of elections to return the keys to the custody of the county clerk.

Section 6. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, and primary, ~~and runoff primary,~~ elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.
- (4) ~~A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.~~

~~However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.~~ The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.
- (7) All public schools shall be closed on the day of any regular election.

Section 7. KRS 118.035 is amended to read as follows:

- (1) The polls shall be opened on the day of a primary, ~~runoff primary,~~ special election, or regular election at 6 a.m., prevailing time, and shall remain open until each voter who is waiting in line at the polls at 6 p.m., prevailing time, has voted. At 6 p.m., prevailing time, if voters are waiting at the polls to vote, the precinct election sheriff shall announce that a voter wishing to vote must immediately get in line. When all voters waiting at the polls at that time are in line, the precinct election sheriff shall then determine which voter is the last in line, and that voter shall be the last voter permitted to vote. The precinct election sheriff shall wait in line with the last voter who shall be permitted to vote until that voter has voted and shall inform a voter who subsequently arrives at the polls that no one shall be permitted to vote after the last voter in line at 6 p.m., prevailing time. After the last voter waiting in line at 6 p.m., prevailing time, has voted, the polls shall then be closed.
- (2) As provided in Section 148 of the Constitution of Kentucky, any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute an absentee ballot, be entitled to absent himself from any services or employment in which he is then engaged or employed for a reasonable time, but not less than four (4) hours on the day he appears before the clerk to request an application for or to execute an absentee ballot, during normal business hours of the office of the clerk or to cast his ballot on the day of the election between the time of opening and closing the polls. The employer may specify the hours during which an employee may absent himself.
- (3) No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote, under circumstances which did not prohibit him from voting, may be subject to disciplinary action.
- (4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. The person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

Section 8. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) ~~Not less than twenty five (25) days before a runoff primary;~~
 - (c) ~~Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (c)(4) of this subsection; and~~
 - (c) ~~(d)~~ Not later than the Thursday after the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose

nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 9. KRS 118.225 is amended to read as follows:

- (1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.
- (2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary, ~~twenty-six (26) days before a runoff primary,~~ or the Thursday following the second Tuesday in August preceding the general election.
- (3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary or the Thursday following the second Tuesday in August preceding the general election.
- (4) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 10. KRS 121.015 is amended to read as follows:

As used in this chapter:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Election" means any primary, ~~runoff primary,~~ regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, ~~runoff primary,~~ regular, or special election shall be considered a separate election;
- (3) "Committee" includes the following:
 - (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is

- managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;
- (b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);
 - (c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;
 - (d) An executive committee of a political party; and
 - (e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;
- (4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars (\$100) shall be reported to the registry;
- (5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;
- (6) "Contribution" means any:
- (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;
 - (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
 - (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
 - (d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
- (7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:
- (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;
 - (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 - (c) An independent expenditure by any individual or permanent committee;
- (8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;
- (9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise,

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any provision of law that applies to a candidate shall also apply to a slate of candidates;

- (10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;
- (11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents; and
- (12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 11. KRS 121.150 is amended to read as follows:

- (1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars (\$500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.
- (2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.
- (3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars (\$50), and all anonymous contributions in excess of fifty dollars (\$50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.
- (4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars (\$50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars (\$50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.
- (5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars (\$100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.
- (6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars (\$1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars (\$100) from any person or more than two hundred dollars (\$200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars (\$1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars (\$100) and no permanent committee or contributing organization shall contribute more than two hundred dollars (\$200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.
- (7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

- (8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.
- (9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.
- (10) No person shall contribute more than one thousand five hundred dollars (\$1,500) to all permanent committees and contributing organizations in any one (1) year.
- (11) No person shall contribute more than two thousand five hundred dollars (\$2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars (\$1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.
- (12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.
- (13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars (\$50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars (\$25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars (\$10,000) in any one (1) election.
- (14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.
- ~~(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.~~
- ~~(16)~~ Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.
- ~~(16)(17)~~ Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.
- ~~(17)(18)~~ Nothing in subsections (14) to ~~(16)(17)~~ of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.
- ~~(18)(19)~~ The provisions of subsections (14) and ~~(15)(16)~~ of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsection (16)~~subsections (15) and (17)~~ of this section shall apply only to those candidates or slates of candidates in ~~a runoff primary or~~ special election which shall be conducted subsequent to January 1, 1993.
- ~~(19)(20)~~ A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, ~~runoff primary election,~~ regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.
- ~~(20)(21)~~ No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars (\$50,000).
- ~~(21)(22)~~ No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

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~~(22)~~~~(23)~~ Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

~~(23)~~~~(24)~~ In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

~~(24)~~~~(25)~~ No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

~~(25)~~~~(26)~~ (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars (\$10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

~~(26)~~~~(27)~~ No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 12. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary, ~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars (\$1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary, ~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same

office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

- (c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. ~~For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election.~~ For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election. ~~For runoff primary, if one is held,~~ except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.
- (d)
 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.
 2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.
- (e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.
- (f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.
- (g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn

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candidate or slate of candidates.

- (j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.
- (k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.
- (l)
 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars (\$500) plus the amount by which the spending limit was exceeded.
 2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.
- (2) (a) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:
 1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary~~, runoff primary if slates of candidates of that party participate,~~ and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.
- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For each contribution in excess of one hundred dollars (\$100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
 3. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 4. The total amount of cash contributions received during the reporting period; and
 5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
 2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
 3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.
- (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.
- (6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
- (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major

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business, social, or political interest represented by the permanent committee;

- (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 - (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.
- (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.
- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
- (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;
 - (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars (\$100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(5)(~~6~~), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit,

or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

- (11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.
- (b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.
- (c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary~~, runoff primary,~~ and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.
- (d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.
- (e) Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

Section 13. KRS 121.220 is amended to read as follows:

- (1) Each candidate, slate of candidates, and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate, slate of candidates, or committee. The candidate, slate of candidates, or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, slate of candidates, or committee participates. Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, slate of candidates, or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate, slate of candidates, or committee files the name of his or its campaign treasurer.
- (2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." For each deposit, the campaign treasurer or deputy campaign treasurer shall retain a statement showing the name and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee for each contribution of any amount made by a permanent committee, and the full name, address, employer of each other contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and occupation of each contributor of more than one hundred dollars (\$100) and the amount contributed. Cash contributions shall be accompanied by the same receipt form. The campaign treasurer or deputy campaign treasurer for a slate of candidates or a slate's campaign committee shall comply with the requirements of KRS 121A.080~~(5)(6)~~.

Section 14. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Fund" means the election campaign fund;
- (3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;
- (4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;
- (5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary ~~or runoff primary~~ election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. ~~"Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received~~

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~~the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner];~~

- (6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;
- (7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;
- (8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;
- (9) "Committee" includes the following:
 - (a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;
 - (b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);
 - (c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties and which functions on a regular basis throughout the year;
 - (d) An executive committee of a political party; and
 - (e) "Exploratory committee," which means a committee formed by one (1) or more persons which is registered pursuant to KRS 121.170 to accept contributions and make expenditures for the purpose of determining the feasibility of forming a slate of candidates for Governor and Lieutenant Governor or of determining the composition of a slate of candidates for Governor and Lieutenant Governor;
- (10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars (\$100) shall be reported to the registry;
- (11) (a) "Contribution" means any:
 - 1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;
 - 2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;
 - 3. Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services, if the person furnishing the goods, advertising, or services paid another person for their provision; or
 - 4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization, if the person making the payment paid another person for their utilization.
- (b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:
 - 1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf

of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars (\$300);
 3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 4. An independent expenditure by any individual or permanent committee;
- (12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and
- (13) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 15. KRS 121A.020 is amended to read as follows:

- (1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.
- (2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080~~(5)(6)~~, 118.255(3), and 121A.015(5).
- (3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.
- (4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.
- (5) In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3., all slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry not later than five (5) days after the last day of the calendar month following the formation and registration of the committee or registration of the fundraiser and not later than five (5) days after the last day of each calendar month thereafter until the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected when reports shall be filed not later than three (3) days after the fifty-sixth, forty-second, twenty-eighth, and fourteenth days preceding the primary or regular election. All contributions received by a slate of candidates as of the last day of each reporting period shall be included on the report for that period regardless of whether the contributions have been deposited in the slate's campaign account. ~~Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary.~~ All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports every thirty (30) days thereafter until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4). All reports required by this subsection shall include all contributions deposited into and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.
- (6) After each primary~~, each runoff primary,~~ and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.
- (7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 16. KRS 121A.030 is amended to read as follows:

- (1) A qualifying slate of candidates for Governor and Lieutenant Governor that receives transfers from the fund may make campaign expenditures which, in the aggregate, including the expenditure of transfers from the fund, shall not exceed one million eight hundred thousand dollars (\$1,800,000) in connection with a primary election campaign and one million eight hundred thousand dollars (\$1,800,000) in connection with a regular election campaign, subject to the provisions of KRS 121A.080~~(3) and (4) and (5), and three hundred thousand dollars (\$300,000) in connection with a runoff primary campaign.~~
- (2) The expenditure limit amounts established in subsection (1) of this section shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a

Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

- (3) No qualifying slate of candidates for Governor and Lieutenant Governor that receives a transfer from the fund or that is otherwise subject to expenditure limitations shall exceed the expenditure limitations of subsection (1) of this section through an additional reported or unreported expenditure by any person, committee, or contributing organization which does not qualify as an independent expenditure.
- (4) A slate of candidates for Governor and Lieutenant Governor that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit that was not rescinded pursuant to KRS 121A.040(4) may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election. A slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund pursuant to KRS 121A.040(4) may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election up to a maximum of one hundred fifty thousand dollars (\$150,000) in any one (1) election.
- (5) No slate of candidates for Governor and Lieutenant Governor shall knowingly accept any other campaign contribution during the twenty-eight (28) days immediately preceding a primary or regular election ~~and during the fourteen (14) days immediately preceding a runoff primary~~ except:
 - (a) A qualifying slate of candidates that has elected to become eligible for fund transfers or who may in the future elect to become eligible for fund transfers shall be released from expenditure limitations following a certification by the registry pursuant to KRS 121A.080 (3) or (4) ~~or (5)~~ that a slate of candidates that has not elected to become eligible for fund transfers has received contributions or made expenditures in excess of the expenditure limits provided in subsection (1) of this section; or
 - (b) The matching ratio of fund transfers established in KRS 121A.060(3)(c) has been reduced by the registry pursuant to KRS 121A.080 (2) ~~(3)~~. If the registry reduces the matching ratio of fund transfers, a qualifying slate of candidates that has elected to become eligible for fund transfers or that may in the future elect to become eligible for fund transfers, may accept aggregate qualifying contributions which, when added to the maximum threshold qualifying amount established in KRS 121A.060(1) and the amount equal to the reduced matching ratio of fund transfers shall not exceed the expenditure limit established in subsection (1) of this section, unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080 (3) or (4) ~~or (5)~~.

Section 17. KRS 121A.040 is amended to read as follows:

- (1) Each slate of candidates for Governor and Lieutenant Governor shall file with the registry a statement of intent to accept or to reject a transfer from the election campaign fund. The statement shall be filed not later than the deadline for filing nomination papers.
- (2) A qualifying slate of candidates that intends to accept a transfer shall swear that the slate and the slate's authorized agents have complied with and will continue to comply with applicable contribution and expenditure limits.
- (3) A slate of candidates shall designate in the statement of intent whether the slate will accept or reject a transfer in either the primary or the regular election. A qualifying slate of candidates that receives a transfer from the fund in either the primary or regular election shall be bound by the contribution and expenditure limits of KRS 121A.030 and 121A.050 throughout the campaign. A slate of candidates that rejects expenditure limitations in a primary shall not be eligible to receive a transfer from the fund in ~~a runoff primary or~~ the regular election. A slate of candidates that accepts expenditure limitations in a primary shall not reject expenditure limitations in a regular election.
- (4)
 - (a) Prior to the payment by the registry of either a primary election transfer or a regular election transfer, a slate of candidates may rescind its statement of acceptance by filing a notice rescinding its acceptance not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.
 - (b) A slate of candidates may rescind its statement of rejection if it has not received contributions or made expenditures in excess of the expenditure limit established by KRS 121A.030(1) by filing a notice rescinding its rejection not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

Section 18. KRS 121A.060 is amended to read as follows:

- (1) The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars (\$300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars (\$600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080 (3) or (4) ~~or (5)~~. A qualifying slate which discovers that it has received qualifying

contributions in excess of the maximum threshold qualifying amount shall, without penalty, dispose of qualifying contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors. The excess contributions returned to the contributors shall not be considered as qualifying contributions and shall not be matched by transfers from the fund. After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers, the threshold qualifying amounts shall be increased or decreased accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The registry shall make the adjustments in the threshold qualifying amounts in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

- (2) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.
- (3) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:
 - (a) A statement of intent accepting maximum expenditure limitations;
 - (b) A copy of the slate's nomination papers;
 - (c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and
 - (d) Any other information reasonably necessary that is required by the registry.
- (4) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.
- (5) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) working days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.
- (6) A separate determination and certification shall be made for a primary and a regular election.
- (7) The certification issued by the registry shall indicate:
 - (a) Whether a slate of candidates is eligible to receive a transfer; and
 - (b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.
- (8) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.
- (9) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:
 - (a) State the reasons why the slate of candidates is not eligible to receive a transfer; and
 - (b) What action, if any, the slate of candidates may take to qualify for a transfer.
- (10) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.
- (11) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.
- ~~(12) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).~~
- ~~(13)~~ No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, qualifying slates may independently qualify for subsequent transfers in that election without regard to the ability of another qualifying slate in that election to qualify for subsequent transfers in that election.

Section 19. KRS 121A.080 is amended to read as follows:

- (1) If the registry certifies that a qualifying slate of candidates is eligible to receive a transfer from the fund, the slate may submit a transfer entitlement voucher to the registry, complying with the procedures of subsection ~~(6)(7)~~ of this section. Qualifying slates of candidates may receive transfers from the fund according to the matching ratio and threshold levels of qualifying contributions received specified in KRS 121A.060(3)(c) and 121A.060(1), respectively. Subject to subsections ~~(3)(4)~~ and ~~(4)(5)~~ of this section, a transfer entitlement voucher may document total qualifying contributions of not less than three hundred thousand dollars (\$300,000) but not more than six hundred thousand dollars (\$600,000) for a primary or regular election for receipt of total fund transfers equal to twice the amount of qualifying contributions documented. A qualifying slate may submit multiple transfer entitlement vouchers as additional qualifying contributions are received in an election, but the maximum amount of fund transfers a slate may receive in a primary or regular election shall not exceed one million two hundred thousand dollars (\$1,200,000), subject to the provisions of subsections ~~(3)(4)~~ and ~~(4)(5)~~ of this section.
- ~~(2) The fund transfer which a qualifying slate of candidates for Governor and Lieutenant Governor in a runoff primary may receive shall be three hundred thousand dollars (\$300,000).~~
- ~~(3)~~ The fund transfer amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment annually, beginning in 1996, and in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election. If the registry makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that the existing appropriations in the fund are insufficient to cover the anticipated fund transfers, the registry shall reduce the matching ratio to the ratio the registry determines so as not to exceed the amount of the fund. If the matching ratio is reduced for a primary election, it shall be applied retroactively to all transfers made to qualifying slates of candidates in the primary election. If the matching ratio is reduced for a regular election, it shall be applied retroactively to all transfers made to qualifying slates of candidates in the regular election.
- ~~(3)(4)~~(a) If the registry makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that in the course of a primary election ~~runoff primary election,~~ or regular election campaign a slate of candidates for Governor and Lieutenant Governor that has not accepted the provisions of this chapter has received contributions or made expenditures in excess of the expenditure limit as provided in KRS 121A.030(1), the registry shall certify that those slates of candidates that have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from expenditure limitations and may receive and submit for fund transfers qualifying contributions in excess of six hundred thousand dollars (\$600,000). Slates of candidates released from expenditure limitations in a primary or regular election shall continue to be eligible to receive transfers from the fund ~~A slate of candidates that is released from expenditure limitations in a runoff primary shall not be eligible for transfers from the fund in excess of three hundred thousand dollars (\$300,000), but shall be eligible to accept qualifying contributions for the runoff primary;~~
- (b) The registry shall conduct a public hearing within three (3) days after any report submitted to the registry by a campaign committee of a slate of candidates indicates that the slate of candidates has, or may have, received contributions or made expenditures in excess of the expenditure limits as provided in KRS 121A.030(1). The registry shall issue a ruling not later than seven (7) days after the public hearing; and
- (c) A public hearing shall be conducted within three (3) days upon petition to the registry by a slate of candidates that, based upon its knowledge and belief, another slate of candidates has, or may have, received contributions in excess of the expenditure limitations as provided in KRS 121A.030(1). The registry shall issue a ruling not later than seven (7) days after the public hearing.
- ~~(4)(5)~~ Nothing in this section shall prevent any slate of candidates from notifying the registry in writing that its campaign committee has received contributions or made expenditures in excess of the expenditure limitations as provided in KRS 121A.030(1). In that case, no public hearing shall be held and the registry shall certify that those slates of candidates who have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers for that election shall be released from expenditure limitations for that election and shall continue to be eligible to receive transfers from the fund if qualified by law.
- ~~(5)(6)~~ A slate of candidates shall establish a separate candidate campaign account for each primary ~~runoff primary,~~ and regular election in which it participates. The unexpended balance of contributions and fund transfers in a candidate campaign account of a slate of candidates which remains after all financial obligations of the particular election for which the account is established have been satisfied shall be forwarded to the registry for deposit in the fund when the account is closed. The payment to the fund shall be made not later than ten (10) working days after the candidate campaign account for a particular election is closed. Funds in the candidate campaign account of a slate of candidates shall be expended only for expenses incurred in the particular election for which the account is established and shall not be used to pay expenses incurred in any other election or for any other purpose.
- ~~(6)(7)~~ To receive fund transfers for which it is eligible, each qualifying slate of candidates shall submit to the registry at the times and in the form and manner the registry may require, a transfer entitlement voucher. The voucher shall include the

full name of all persons making a contribution to the campaign committee of the slate of candidates together with the date, the exact amount of the contribution, the specific address of the contributor, the congressional district in which the contributor resides, the occupation and employer of the contributor and the spouse of the contributor, or, if the contributor or the spouse of contributor is self-employed, the name under which he is doing business.

~~(7)(8)~~ Within three (3) working days of the receipt of the voucher, the registry shall:

- (a) Make a determination, according to the procedures the registry may establish by administrative regulation, whether each contribution enumerated on the voucher is consistent with the provisions of this chapter;
- (b) Certify for payment to the qualifying slate of candidates the amount of fund transfer for which it is eligible; and
- (c) Promptly upon certification, issue a warrant on the fund for a transfer to the qualifying slate of candidates or its authorized treasurer in the amount certified by the registry.

~~(8)(9)~~ For the purpose of financing primary election campaigns, the registry shall make no transfer to a qualifying slate of candidates entitled to transfers from the fund earlier than January 1 of a year in which the Governor and Lieutenant Governor are elected.

~~(9)(10)~~ Transfers from the fund for a regular election campaign shall not be made earlier than the date the results of the primary election preceding the regular election of a year in which the Governor and Lieutenant Governor are elected are certified. If a qualifying slate of candidates is unopposed in a primary election, or has no opposition that has received contributions of not less than the threshold qualifying amount for the primary election, the registry shall make no transfer to that slate from the fund for the primary election. If a qualifying slate of candidates is unopposed in a regular election, or has no opposition that has received contributions of not less than the minimum threshold qualifying amount for the regular election, the registry shall make no transfer to that slate from the fund for the regular election.

~~(10)(11)~~ If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry not later than the deadline for printing primary election ballots, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a vacancy occurs in a slate of candidates after the ballots are printed for the primary election, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a replacement for a vacant candidate is made after the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, notices informing the voters of the change in the composition of the slate shall be posted at each precinct polling place.

~~(11)(12)~~ The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

~~(12)(13)~~ If during the course of a primary or regular election, a qualifying slate of candidates withdraws, is otherwise removed from the ballot, becomes the only slate of candidates for a party nomination or election on the ballot, or if both candidates on the slate die, the registry shall certify and pay on vouchers previously submitted by that slate, but any subsequent vouchers submitted by that slate shall not be certified nor shall transfers be made.

~~(13)(14)~~ The registry shall not certify any contribution made to a qualifying slate of candidates entitled to transfers from the fund, which, when added to other contributions made by the same contributor to the slate in connection with the primary election and in connection with the regular election, violates the provisions of KRS 121A.050 or 121.150.

~~(14)(15)~~ The registry shall perform a continuing audit of all slates of candidates for Governor and Lieutenant Governor to ensure that they are in compliance with this chapter and the election laws of the Commonwealth.

Section 20. KRS 121A.100 is amended to read as follows:

- (1) Any qualifying slate of candidates that elects to receive a transfer from the fund shall participate preceding any primary, ~~runoff primary, if one is held,~~ and regular election in which it participates, in a year in which the Governor and Lieutenant Governor are elected, in a reasonable number of televised candidate forums or debates managed and designed by the Kentucky Authority for Educational Television in a manner to ensure participation by all slates of candidates. However, a qualifying slate of candidates that elects to receive a transfer from the fund shall not be required to participate in more than six (6) televised candidate forums or debates preceding a primary, ~~one (1) preceding a runoff primary,~~ or six (6) preceding a regular election. The authority shall make the televised candidate forums or debates available at no charge to all other media. The authority shall promulgate administrative regulations necessary to implement the requirements of this subsection.
- (2) All programming decisions concerning televised candidate forums or debates shall be the ultimate responsibility of the Kentucky Authority for Educational Television. The authority shall maintain editorial integrity in accordance with accepted public broadcasting principles. No appointed or elected state officeholder or any other person shall directly or

indirectly attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any person assigned responsibility for candidate forum or debate programming decisions no alternative but to comply with the wishes of the officeholder or person. Persons assigned candidate forum or debate programming decisions shall be free of obligation or the appearance of obligation to any interest other than the public right to know. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any programming decision he considers to be an abridgement of his legal rights.

- (3) The registry shall promulgate administrative regulations which prescribe the grounds for which failure of a qualifying slate of candidates to participate in any of the televised candidate forums or debates required by subsection (1) of this section shall be excused and the process by which a qualifying slate of candidates shall inform the registry of the grounds for its failure to participate.
- (4) If the registry determines that failure of a qualifying slate of candidates to participate in any televised candidate forum or debate required by subsection (1) of this section was not justified, no fund transfer shall be made to the slate for that election if it shall be otherwise qualified to receive one. If the registry determines that a slate that has already received a fund transfer has unjustifiably failed to participate in any required televised candidate forum or debate, the slate's campaign committee shall reimburse the fund the amount of the transfer within thirty (30) days of the date on which the registry's determination becomes final. If the slate's campaign committee has not reimbursed the fund the amount of the transfer within the thirty (30) day period, the slate shall be personally liable to the fund for the transfer amount to be reimbursed. A slate of candidates may appeal an adverse ruling by the registry within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

HB 424, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

- (4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- (5) In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.
- (6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- (7) In primary elections, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.
- (8) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

HB 454, AN ACT relating to the Interstate Compact for Adult Offender Supervision and matters incidental to the adoption thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

- (1) *The Governor of this Commonwealth is authorized and directed to execute a compact on behalf of the Commonwealth with any of the United States legally joining therein in the form substantially as follows:*

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority

in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions.

The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

In addition, this compact will: create a interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and bylaws and rules promulgated hereunder.

It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

B. "Bylaws" means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

C. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

D. "Compacting state" means any state which has enacted the enabling legislation for this compact.

E. "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

F. "Interstate commission" means the Interstate Commission for Adult Offender Supervision established by this compact.

G. "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

H. "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

I. "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

J. "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

K. "Rules" means acts of the interstate commission, duly promulgated pursuant to Article VII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

L. "State" means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

M. "State council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

ARTICLE III

THE COMPACT COMMISSION

A. The compacting states hereby create the "Interstate Commission for Adult Offender Supervision." The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary.

In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

C. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the interstate commission shall be ex-officio (nonvoting) members. The interstate commission may provide in its bylaws for such additional ex-officio, nonvoting members as it deems necessary.

D. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

E. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The interstate commission shall establish an executive committee which shall include commission officers, members, and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the interstate commission and performs other duties as directed by commission or set forth in the bylaws.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

1. To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.
2. To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
3. To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the compact commission.
4. To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to, the use of judicial process.
5. To establish and maintain offices.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive,

utilize, and dispose of same.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

13. To establish a budget and make expenditures and levy dues as provided in Article IX of this compact.

14. To sue and be sued.

15. To provide for dispute resolution among compacting states.

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

18. To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

19. To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

1. The interstate commission shall, by a majority of the members, within twelve months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

a. Establishing the fiscal year of the interstate commission;

b. Establishing an executive committee and such other committees as may be necessary;

c. Providing reasonable standards and procedures:

(i) For the establishment of committees, and

(ii) Governing any general or specific delegation of any authority or function of the interstate commission;

d. Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting; e. Establishing the titles and responsibilities of the officers of the interstate commission;

f. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission; and

g. Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;

h. Providing transition rules for "start up" administration of the compact;

i. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

2. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission

The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

Section D. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, and employees of the interstate commission shall be immune from suit

and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damaged, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The interstate commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

3. The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgement obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VI

ACTIVITIES OF THE INTERSTATE COMMISSION

1. The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

2. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

3. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication, shall be subject to the same quorum requirements of meetings where members are present in person.

4. The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

5. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

6. Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

- a. Relate solely to the interstate commission's internal personnel practices and procedures;
- b. Disclose matters specifically exempted from disclosure by statute;
- c. Disclose trade secrets or commercial or financial information which is privileged or confidential;
- d. Involve accusing any person of a crime, or formally censuring any person;
- e. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- f. Disclose investigatory records compiled for law enforcement purposes;
- g. Disclose information contained in or related to examination, operating, or conditions reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;
- h. Disclose information, the premature disclosure of which would significantly endanger the life of a person or the

stability of a regulated entity;

i. Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

7. For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

8. The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

ARTICLE VII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1. The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states;

2. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the Federal Administrative Procedure Act, 5 U.S.C. Sections 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. App. 2, Sections 1 et seq., as may be amended (hereinafter "APA").

3. All rules and amendments shall become binding as of the date specified in each rule or amendment.

4. If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

5. When promulgating a rule, the interstate commission shall:

a. Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

b. Allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available;

c. Provide an opportunity for an informal hearing; and

d. Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

6. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the rule unlawful and set it aside.

7. Subjects to the addressed within 12 months after the first meeting must at a minimum include:

a. Notice to victims and opportunity to be heard;

b. Offender registration and compliance;

c. Violations/returns;

d. Transfer procedures and forms;

e. Eligibility for transfer;

f. Collection of restitution and fees from offenders;

g. Data collection and reporting;

h. The level of supervision to be provided by the receiving state;

i. Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;

j. Mediation, arbitration, and dispute resolution.

The existing rules governing the operation of the previous compact superseded by this Act shall be null and void twelve (12) months after the first meeting of the interstate commission created hereunder.

8. Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

ARTICLE VIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION
BY THE INTERSTATE COMMISSION

Section A. Oversight

1. The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.
2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

1. The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.
2. The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states.
3. The interstate commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

Section C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XI, Section B, of this compact.

ARTICLE IX

FINANCE

1. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
2. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.
3. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.
4. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state, as defined in Article II of this compact, is eligible to become a compacting state.
2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.
3. Amendments to the compact may be proposed by the interstate commission for the enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION,
AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state.

4. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

5. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

6. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

Section B. Default

1. If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws, or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

a. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

b. Remedial training and technical assistance as directed by the interstate commission;

c. Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension.

2. Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer, and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

Section C. Judicial Enforcement

The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules, and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XI

SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

2. The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

2. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

(2) This compact may be cited as the Interstate Compact for Adult Offender Supervision.

SECTION 2. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

With respect to the Interstate Compact for Adult Offender Supervision set out in Section 1 of this Act:

(1) The Governor shall establish by an executive reorganization order under KRS 12.027 and 12.028:

(a) The initial composition, terms, and compensation of the Kentucky State Council for Interstate Adult Offender Supervision required by Article III, Paragraph B, of that compact, with the Governor making the appointments to those positions, except that any positions representing the legislative branch shall be made jointly by the Speaker of the House of Representatives and the President of the Senate and any positions representing the judicial branch shall be made by the Chief Justice of the Commonwealth;

(b) The qualifications, term, and compensation of the compact administrator required by Article II, Paragraph B, of that compact, with the Governor, in consultation with the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice of the Commonwealth, making the appointment of the compact administrator; and

(c) Any other matters necessary for the implementation of the compact at the time that it becomes effective.

(2) Except as provided in subsection (1)(a) and (b) of this section, the Department of Corrections may promulgate in accordance with KRS Chapter 13A any administrative regulations necessary to implement and administer the compact after it comes into effect.

Section 3. The following KRS section is repealed:

439.560 Compact with other states for out-of-state parolee supervision.

Section 4. This Act takes effect the later of July 1, 2001, or upon enactment of the Interstate Compact for Adult Offender Supervision, in substantially the form set out in Section 1 of this Act, by no less than thirty-five states, as that term is defined in Section 1 of this Act. In making a determination that this Act has come into effect, the Reviser of Statutes may rely on the written representation of the National Institute of Corrections of the United States Department of Justice.

The Committee on Natural Resources and Environment reported **HB 376**, with Committee Substitute attached thereto, **HB 404**, with Committee Substitute attached thereto, and **HB 436**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 376, AN ACT relating to blasting safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.315 is amended to read as follows:

(1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives are used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall

issue a license to use explosives to any person who:

- (a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster or has worked in blasting operations for twelve (12) months and has completed a formal training program approved by the department; and
 - (b) Has passed an examination prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.
- (2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a photograph of the applicant~~fee~~. If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of ~~a(n additional)~~ fee of twenty-five dollars (\$25).
 - (3) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination, upon the payment of a fee.
 - (4) Each blaster shall be required to renew his license every three (3) years~~each year~~ by application to the department, which application shall be accompanied by a fee. Each applicant for renewal of a Kentucky blaster's license shall furnish proof that during the preceding three (3) years, he has attended a minimum of sixteen (16) hours of blaster's training approved by the department. Each applicant for renewal of a limited Kentucky blaster's license shall furnish proof that during the preceding three (3) years, he has attended a minimum of four (4) hours of blaster's training approved by the department.
 - (5) The department shall not issue a blaster's license to any person not entitled to transport or receive explosives under existing federal law, including persons who:
 - (a) Are less than twenty-one (21) years of age; or
 - (b) Have been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year, unless the conviction has been specifically exempted by the United States Bureau of Alcohol, Tobacco and Firearms or its successor.
 - (6) All fees provided in this section shall be set by the department by administrative regulation; however, the fee for an application shall not exceed forty dollars (\$40), the fee for license renewal shall not exceed sixty~~twenty~~ dollars (\$60)~~(\$20)~~, and the fee for reciprocal licensing shall not exceed sixty dollars (\$60).
 - (7) The commissioner may suspend any license for due cause, but no license may be revoked until the licensee has been granted adequate opportunity for a hearing conducted in accordance with KRS Chapter 13B.

The Committee Substitute to **HB 376** is as follows:

HB 376, AN ACT relating to blasting safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.315 is amended to read as follows:

- (1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives are used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:
 - (a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster or has worked in blasting operations for twelve (12) months and has completed a formal training program approved by the department; and
 - (b) Has passed an examination prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.
- (2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a photograph of the applicant~~fee~~. If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of ~~a(n additional)~~ fee of twenty-five dollars (\$25).
- (3) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination, upon the payment of a fee.
- (4) Each blaster shall be required to renew his license every three (3) years~~each year~~ by application to the department, which application shall be accompanied by a fee. Each applicant for renewal of a Kentucky blaster's license, other than a certified surface coal miner, shall furnish proof that during the preceding three (3) years, he has attended a minimum

of sixteen (16) hours of blaster's training approved by the department. Each applicant for renewal of a limited Kentucky blaster's license shall furnish proof that during the preceding three (3) years, he has attended a minimum of four (4) hours of blaster's training approved by the department.

- (5) The department shall not issue a blaster's license to any person not entitled to transport or receive explosives under existing federal law, including persons who:
 - (a) Are less than twenty-one (21) years of age; or
 - (b) Have been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year, unless the conviction has been specifically exempted by the United States Bureau of Alcohol, Tobacco and Firearms or its successor.
- (6) All fees provided in this section shall be set by the department by administrative regulation; however, the fee for an application shall not exceed forty dollars (\$40), the fee for license renewal shall not exceed ~~sixty (20)~~ sixty (20) dollars ~~(\$60)(\$20)~~, and the fee for reciprocal licensing shall not exceed sixty dollars (\$60).
- (7) The commissioner may suspend any license for due cause, but no license may be revoked until the licensee has been granted adequate opportunity for a hearing conducted in accordance with KRS Chapter 13B.

HB 404, AN ACT relating to training and education of coal miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.102 is amended to read as follows:

- (1) No person shall be assigned ~~[to work]~~ duties by a licensee as a laborer or supervisor working ~~[underground]~~ for the purpose of mining coal unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.
- (2) A permit as trainee miner shall be issued by the commissioner to any person who has completed a program of education of a minimum of forty (40) hours or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved ~~[prepared]~~ by the commissioner ~~[department]~~. This education and training program shall be determined and established by the board, as provided in KRS 351.105.
- (3) Trainee miners shall work within the sight and sound of a certified miner.
- (4) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or ~~[]~~ assistant mine foreman shall ~~[]~~ or fire boss may have no more than five (5) persons working ~~[with him and]~~ under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.
- (5) A certificate of competency and qualification as a ~~[an underground]~~ miner shall be issued by the commissioner to any person who has ~~[in total]~~ a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner.
- (6) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination shall ~~[may]~~ be given orally if the miner is unable to read or comprehend a written examination.
- (7) Examinations shall be held in any district office during regular business hours ~~[after whatever public notice and at the time that the commissioner finds necessary to enable all applicants for certificates to have an opportunity to qualify for certification]~~.
- ~~[(8)]~~ Notice of the time and place of the examination for the certification of miners shall be given to management at the mine and to the miners or their representatives at the mine, and notice shall be posted at the places in the vicinity of the mine where notices to employees are posted.
- ~~[(8)]~~ ~~[(9)]~~ If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant not more than ten (10) days after the date of examination.
- ~~[(9)]~~ ~~[(10)]~~ Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall ~~[may]~~, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall ~~[schedule an informal hearing and]~~ either affirm the action or issue the certificate to the applicant.
- ~~[(10)]~~ ~~[(11)]~~ If the applicant is ~~[still]~~ aggrieved by the action of the commissioner, he may appeal to the board which shall hold a hearing on the matter in accordance with KRS Chapter 13B.
- ~~[(11)]~~ ~~[(12)]~~ The applicant may appeal from the final order of the board by filing in the Circuit Court in the judicial circuit in which he resides a petition for appeal in accordance with KRS Chapter 13B.

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Section 2. KRS 351.106 is amended to read as follows:

- (1) The board shall establish criteria and standards for a program of education and training to be required of prospective miners~~[of coal mines]~~, miners~~[of coal mines]~~, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments,~~[but in no case less than twenty (20) hours training for new work assignments,]~~ and at least eight (8) hours of annual retraining and reeducation for all certified persons.
- (2) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least eight (8) hours of retraining and reeducation.
- (3) Newly-hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (4) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.~~[Each licensee shall annually submit to the department the dates on which the annual retraining and reeducation sessions were conducted and the names and corresponding miner identification numbers of those persons receiving training and reeducation on a form prescribed by the commissioner.]~~
- (5) The licensee shall pay all certified miners~~[persons]~~ their regular wages and benefits while they receive~~[required]~~ training required by the department.
- (6) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (7) If the department discovers a miner working without proper training ~~or~~and the licensee cannot provide proof of training, the miner shall be withdrawn from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- (8) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- (9) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.
- (10) The commissioner may promulgate reasonable administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include, but not be limited to, implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (11) The commissioner shall keep and maintain records of board meetings, activities of the board, and current records on all certified miners~~[persons]~~, all of which shall be maintained by computer for ready access.
- (12) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (13) The commissioner may make recommendations or supply information to the board as he may deem appropriate. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (14) All training and education required by this chapter may be conducted in classrooms, on the job, or in simulated mines.

The Committee Substitute to **HB 404** is as follows:

HB 404, AN ACT relating to training and education of coal miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.102 is amended to read as follows:

- (1) No person shall be assigned~~[to work]~~ duties by a licensee as a laborer or supervisor working~~[underground]~~ for the purpose of mining coal unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.
- (2) A permit as trainee miner shall be issued by the commissioner to any person who has completed a program of education of a minimum of forty (40) hours for underground mining or sixteen (16) hours for surface mining or who has completed

a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form ~~approved~~^{prepared} by the ~~commissioner~~^{department}. This education and training program shall be determined and established by the board, as provided in KRS 351.105.

- (3) Trainee miners shall work within the sight and sound of a certified miner.
- (4) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman ~~or~~^{assistant mine foreman} ~~shall~~^{or fire boss may} have no more than five (5) persons working ~~with him and~~ under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.
- (5) A certificate of competency and qualification as ~~a(n) underground~~ miner shall be issued by the commissioner to any person who has ~~in total~~ a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner.
- (6) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination ~~shall~~^{may} be given orally if the miner is unable to read or comprehend a written examination.
- (7) Examinations shall be held in any district office during regular business hours ~~after whatever public notice and at the time that the commissioner finds necessary to enable all applicants for certificates to have an opportunity to qualify for certification~~.
- ~~((8))~~ Notice of the time and place of the examination for the certification of miners shall be given to management at the mine and to the miners or their representatives at the mine, and notice shall be posted at the places in the vicinity of the mine where notices to employees are posted.
- ~~((8))~~⁽⁹⁾ If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant not more than ten (10) days after the date of examination.
- ~~((9))~~⁽¹⁰⁾ Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency ~~shall~~^{may}, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall ~~schedule an informal hearing and~~ either affirm the action or issue the certificate to the applicant.
- ~~((10))~~⁽¹¹⁾ If the applicant is ~~still~~ aggrieved by the action of the commissioner, he may appeal to the board which shall hold a hearing on the matter in accordance with KRS Chapter 13B.
- ~~((11))~~⁽¹²⁾ The applicant may appeal from the final order of the board by filing in the Circuit Court in the judicial circuit in which he resides a petition for appeal in accordance with KRS Chapter 13B.

Section 2. KRS 351.106 is amended to read as follows:

- (1) The board shall establish criteria and standards for a program of education and training to be required of prospective miners ~~of coal mines~~, miners ~~of coal mines~~, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, ~~but in no case less than twenty (20) hours training for new work assignments~~, and at least eight (8) hours of annual retraining and reeducation for all certified persons.
- (2) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least eight (8) hours of retraining and reeducation.
- (3) Newly-hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (4) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend. ~~Each licensee shall annually submit to the department the dates on which the annual retraining and reeducation sessions were conducted and the names and corresponding miner identification numbers of those persons receiving training and reeducation on a form prescribed by the commissioner.~~
- (5) The licensee shall pay all certified miners~~persons~~ their regular wages and benefits while they receive ~~required~~^{required} training required by the department.
- (6) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (7) If the department discovers a miner working without proper training ~~or~~^{and} the licensee cannot provide proof of training, the miner shall be withdrawn from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.

- (8) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- (9) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.
- (10) The commissioner may promulgate reasonable administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include, but not be limited to, implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (11) The commissioner shall keep and maintain records of board meetings, activities of the board, and current records on all certified ~~miners~~^{persons}, all of which shall be maintained by computer for ready access.
- (12) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (13) The commissioner may make recommendations or supply information to the board as he may deem appropriate. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (14) All training and education required by this chapter may be conducted in classrooms, on the job, or in simulated mines.

HB 436, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;
 - (b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (c) "Board" means the Mining Board created in KRS 351.105;
 - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - (e) "Commissioner" means commissioner of the Department of Mines and Minerals;
 - (f) "Department" means the Department of Mines and Minerals;
 - (g) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - (h) "Excavations and workings" means the excavated portions of a mine;
 - (i) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
 - (j) "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis. However on and after June 19, 1976, all mines shall be classified as gassy or gaseous;
 - (k) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
 - (l) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
 - (m) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to

each other and under the same management, ~~but~~ ~~and~~ which are administered as distinct units shall be considered a separate mine;

- (n) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- (o) "Open-pit mine" shall include open excavations and open-cut workings including but not limited to ~~auger operations and highwall mining systems~~ ~~mines~~ for the extraction of coal;
- (p) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (q) "Permissible" refers to ~~means that~~ any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency ~~bureau~~;
- (r) "Preshift examination" means the examination of ~~a~~ ~~an underground~~ mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
- (s) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (t) "Shaft" means a vertical opening through the strata that is ~~is~~ ~~or may be~~ used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (u) "Slope" means an inclined opening used for the same purpose as a shaft;
- (v) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines; and
- (w) "Supervisory personnel" means a person ~~or persons~~ certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 2. KRS 351.020 is amended to read as follows:

(1) The Department of Mines and Minerals shall be headed by the commissioner of the Department of Mines and Minerals.

(2) The department shall administer all laws of the Commonwealth ~~this state~~ relating to mines.

Section 3. KRS 351.030 is amended to read as follows:

~~[The department shall hold one (1) or more hearings on each matter brought before it.]~~ All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his employer for testifying, or for his failure to testify, at these hearings.

Section 4. KRS 351.040 is amended to read as follows:

- (1) Any party in interest dissatisfied with an order of the department may commence an equitable action against the department and other interested parties as defendants, to vacate or set aside, in whole or in part, any such order. The action ~~shall~~ ~~may~~ be brought in the Circuit Court of the county where the subject matter involved in the order, or the well or workable coal bed or part thereof, is located. ~~[The court may grant relief from any unlawful or unreasonable order of the department, and render such judgment as appears to it to be equitable and just.]~~
- (2) The pendency of the action shall not of itself suspend the operation of the order of the department, but during the pendency of the action any party may secure from the court an order suspending or staying the operation of the order of the department pending the action by giving to the other parties adequate security, approved by the court, against loss due to the delay in enforcement of the order, in case the order under review is not set aside, and the court may, without security being given, suspend the operation of the order, in whole or in part, on such terms as it deems just and in accordance with the practice of courts of equity; provided, however, that the operation of an order pertaining to safety in coal mines shall not be suspended temporarily pending final decision of the court.
- (3) Appeals may be taken to the Court of Appeals as in other cases.

Section 5. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to insure at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth ~~state~~ and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of ~~those underground~~ coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient

service and good behavior.

- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in ~~the Commonwealth~~~~[this state]~~. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in ~~the Commonwealth~~~~[this state]~~. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. ~~A person~~~~[Persons]~~ desiring to use ~~a~~~~[their]~~ mining engineering or technology degree for practical experience credit shall file proof of having received ~~a~~~~[their]~~ degree prior to examination.
- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. ~~A person~~~~[Persons]~~ appointed as mine ~~inspector~~~~[inspectors]~~, mine safety ~~analyst~~~~[analysts]~~, electrical ~~inspector~~~~[inspectors]~~, and mine safety ~~instructor~~~~[instructors]~~ shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) ~~A person~~~~[Persons]~~, other than those employed by a company, who by contractual or other rights, ~~performs~~~~[perform]~~ mine inspection work in any capacity, shall be familiar with mining and possess experience equal to that required of a state mine inspector. ~~He~~~~[They]~~ shall also be held responsible for ~~his~~~~[their]~~ conduct in the performance of ~~his~~~~[their]~~ inspections and related acts. This subsection shall not apply to ~~a person~~~~[persons]~~ excluded by other laws or ~~those~~ who by agreement with the licensee ~~makes~~~~[make]~~ mine visits for technical and investigative work.

Section 6. KRS 351.103 is amended to read as follows:

- (1) All persons possessing valid certificates as mine inspectors, electrical inspectors, mine safety instructors, assistant mine foreman, mine foreman, ~~fire boss,~~ shotfirer, and other mining specialties as established by the board, or **certified** miner shall be eligible to work at any time as miners, provided they fulfill the annual requirements for retraining and reeducation as provided in KRS 351.105.
- (2) Supervisory, clerical, and technically-trained employees of the mine operator whose work contributes only indirectly to mine operations shall not be required to possess a miner's certificate of competency and qualification.

Section 7. KRS 351.105 is amended to read as follows:

- (1) The Board of Miner Training, Education, and Certification is abolished and shall be immediately replaced by the Mining Board.
- (2) The board shall be made up of eight (8) persons, all of whom shall be citizens of Kentucky and from the coal industry in Kentucky. The board's membership shall reflect a fair representation from eastern Kentucky and western Kentucky, large and small operations, and union and nonunion coal production. The Governor shall appoint the members of the board to include:
 - (a) Three (3) members representing management; the Alliance of Kentucky Coal shall submit three (3) nominees for each management position on the board;
 - (b) Three (3) members representing labor; the United Mine Workers of America shall submit three (3) nominees for each labor position on the board;
 - (c) The commissioner of the Department of Mines and Minerals; and
 - (d) The director of the Division of Miner Training, Education, and Certification.

The commissioner of the department shall serve as chairman. The director of the Division of Miner Training, Education, and Certification shall be a nonvoting member.

- (3) Excluding the commissioner and the director of the Division of Miner Training, Education, and Certification, initial appointments to the board shall be made in the following manner and shall reflect equal representation as to number and term regarding both the management and the labor positions: two (2) members for a period of two (2) years; two (2) members for a period of three (3) years; and two (2) members for a period of four (4) years. After the initial appointments, members of the board shall be appointed to four (4)-year terms. Members of the board, including members of the Board of Miner Training, Education, and Certification abolished by this section, may be reappointed at the expiration of their previous appointment at the pleasure of the Governor. Members shall continue to serve until a successor is appointed and qualified.
- ~~(4) [As soon as practicable after the members of the board have been appointed, the commissioner shall call an organizational meeting to implement the provisions of this section.]~~
- ~~(5) [~~ Two (2) of the persons appointed to the board shall be employed in nonsupervisory positions at mines in this Commonwealth~~[state]~~ and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Two (2) of the persons shall be employed in supervisory positions by coal companies operating in the Commonwealth~~[state]~~ and shall have a minimum of five (5) years' experience in the coal mining industry and a mine foreman's certificate. One (1) of each of the members holding supervisory and nonsupervisory mine positions shall have a minimum of five (5) years' practical experience working in a surface or underground coal mine. The director of the Division of Miner Training, Education, and Certification shall have a minimum of five (5) years' practical underground mining experience.
- ~~(5) [(6)]~~ Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the Governor within thirty (30) days from the date the vacancy occurs.
- ~~(6) [(7)]~~ A quorum of the board shall be five (5) voting members; the board may act officially by a majority of those members who are present, except that no action shall be taken without a majority of affirmative votes. Action concerning revocation, suspension, or probation of a mine's license or a miner's certification shall require two-thirds (2/3) of the voting members present. When necessary for the commissioner to be absent or to recuse himself, he is empowered to name an alternate to serve as chairman.
- ~~(7) [(8)]~~ Each member of the board shall receive one hundred fifty dollars (\$150) each day while actually engaged in the performance of the work of the board, shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, and shall receive reimbursement for food and lodging at a reasonable and customary rate, which shall be paid out of the State Treasury upon proper requisition approved by the commissioner.
- ~~(8) [(9)]~~ The board shall act on all matters brought before it by the department and, after hearing, issue orders with respect to these matters.
- ~~(9) [(10)]~~ The board shall meet periodically at the direction of the commissioner to review this chapter and KRS Chapter~~[Chapters 351 and]~~ 352 and make recommendations regarding the amendment of those chapters.
- ~~(10) [(11)]~~ The board shall review and approve all administrative regulations proposed by the department that relate to the mining of coal or the certification of miners before those administrative regulations~~[proposals]~~ are promulgated in accordance with KRS Chapter 13A.
- ~~(11) [(12)]~~ No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- ~~(12) [(13)]~~ The board may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its programs and standards.
- Section 8. KRS 351.107 is amended to read as follows:
- (1) A person~~[Persons]~~ desiring to obtain experience as a shotfirer may not charge or detonate explosives in an underground~~[a]~~ mine unless he is~~[they are]~~ under the direction and within sight and sound of a certified shotfirer. No person shall charge or detonate explosives within an underground~~[a]~~ mine unless that person has successfully completed a training program and passed a test administered by the department. The test shall include at a minimum a determination of the person's ability to test for mine gases and to safely handle and detonate explosives in an underground coal mine.
- (2) The commissioner shall issue a shotfirer's certificate to the person upon successfully passing the test.
- ~~[(3) The board shall determine when the training program for shotfirers is sufficiently available to the work force in the state and thereafter shall establish the effective date after which the requirements of this section shall apply to all persons detonating explosives in underground coal mines.]~~
- Section 9. KRS 351.1071 is amended to read as follows:
- (1) No person shall drill coal or detonate explosives within a mine using the method of shooting coal from the solid until that person successfully completes a training program administered by the department and has passed a test prescribed by the commissioner.
- (2) No person shall be issued a certificate in accordance with subsection (1) of this section unless he~~[or she]~~ presents valid

evidence to the commissioner of having one (1) year of practical underground coal mine experience.

Section 10. KRS 351.108 is amended to read as follows:

Mine superintendents shall hold a mine foreman certificate issued by the commissioner.

Section 11. KRS 351.109 is amended to read as follows:

- (1) An individual is a qualified and certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if he has at least one (1) year of experience under direct supervision of a qualified electrician in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of written tests administered by the department and required in subsection (2) of this section.
- (2) The series of written tests shall include, but not be limited to, the following subjects:
 - (a) Direct current theory and application;
 - (b) Alternating current theory and application;
 - (c) Electric equipment and circuits;
 - (d) Permissibility of electric equipment;
 - (e) Requirements of both federal and state laws; and
 - (f) Pertinent sections of the National Electrical Code.
- (3) A score of at least eighty (80) percent on each of the written tests shall be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that one (1) percentage point shall be added to an individual's score in each test for each additional year of experience beyond the one (1) year minimum requirement specified in subsection (1) of this section; however, in no case shall an individual be given more than five (5) percentage points for such practical experience.
- (4) An individual may, within thirty (30) days from the date on which he received notification from the department of his test scores, repeat those sections on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a minimum of thirty (30) days from the date of receipt of notification of the initial retest scores shall elapse prior to such further retesting, whereupon the entire series of written tests shall be retaken.
- (5) An individual qualified and certified in accordance with this section shall, in order to retain qualification and certification, satisfactorily complete annually a retraining program approved by the department.

Section 12. KRS 351.120 is amended to read as follows:

- (1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner who has passed the examination given by direction of the board for that position.
- (2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner and is authorized to act as such.
- (3) Certificates issued to mine foremen and assistant mine foremen shall be classified as follows:
 - (a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; and
 - (b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman.
- (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.
- (5) The class of mine foreman's certificate awarded shall be determined by the board according to the experience of the applicant.
- (6) No certificate shall be granted to any person who does not present to the board satisfactory evidence, in the form of affidavits, that the applicant has had the required practical experience in underground or surface coal mines. A data sheet shall be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms shall be furnished by the department. For the purpose of this section, persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for any mine foreman or assistant mine foreman certificate. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology degree as credit for practical experience toward a

mine foreman or assistant mine foreman certificate shall file proof of having received their degree prior to the examination.

- (7) Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.
- (8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in postmining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant, or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.
- (9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected by this section.
- (10) When approved by the commissioner, a person who has successfully completed any mine foreman or assistant mine foreman examination may be granted a temporary certification that is valid only until the board acts upon his ~~or her~~ certification at its next regularly scheduled meeting.
- (11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

Section 13. KRS 351.1291 is amended to read as follows:

- (1) All inexperienced surface coal miners shall complete a sixteen (16) hour course of instruction devised or approved by the department in subjects including, but not limited to: accident prevention, cutting and welding, equipment operation, fire protection, first-aid methods, ground control and transportation, handling and use of explosives, mine communications, mine electrical safety standards, mining law, including ~~the statutory [miners']~~ rights *of miners*, safety around bins and hoppers, and any other subjects deemed appropriate by the department. For purposes of this section, "inexperienced coal miners" means all persons who have not previously worked at least forty-five (45) days at a surface coal mine in this Commonwealth.
- (2) All surface coal miners shall complete an eight (8) hour course of annual retraining devised or approved by the department in the subjects identified in subsection (1) of this section.
- (3) The commissioner shall certify all surface coal miners who complete the courses of instruction required in subsections (1) and (2) of this section.

Section 14. KRS 351.160 is amended to read as follows:

- (1) The commissioner of the department shall annually make a report to the Governor of his proceedings during the preceding calendar year. The annual report shall be prepared and printed as soon as possible after the close of the calendar year. The annual report shall cover the complete operation of the mines in this ~~Commonwealth [state]~~ during the preceding calendar year, enumerating all accidents occurring in or about any such mines during that year, and giving such other information as the commissioner deems useful, and making such suggestions as he deems important as to further legislation on the subject of mining.
- (2) The commissioner shall keep and index a permanent record of all inspections made by himself and of all reports relating to inspection of mines furnished to him by mine inspectors. All such records of the department shall be public records and shall, at all times, be open to the inspection of the public, and shall be laid before the Governor upon his request at any time.
- (3) The department shall furnish certified copies of any such records, when requested to do so, upon payment of such fee as is generally charged by courts of record for certified copies. Such fee shall be paid into the Treasury of the state.

Section 15. KRS 351.170 is amended to read as follows:

The licensee of each commercial coal mine shall give at the end of each calendar year accurate information, on ~~blank forms [blanks]~~ furnished by the commissioner, as to the number of accidents that have occurred, the number of persons employed, the tons of coal mined, and any other related information that the commissioner requests.

Section 16. KRS 351.192 is amended to read as follows:

Any person who is qualified by a federal or state agency to perform mine rescue planning and recovery operations, including mine rescue instructors and mine rescue team members, and any person designated by an operator furnishing a mine rescue team

to supervise, assist in planning, or provide service thereto, who in good faith performs, or fails to perform, any act or service in connection with such mine rescue planning and recovery operations shall not be liable for any civil damages as a result of any such acts or omissions, ~~and shall not be required to participate, except voluntarily, in any investigation, including any administrative hearing, in connection therewith; provided however, that nothing contained herein shall be construed to exempt from liability any person responsible for an overall mine rescue operation, including an operator of an affected facility and any person assuming responsibility therefor under federal or state statutes or regulations.~~

Section 17. KRS 351.193 is amended to read as follows:

No miner shall be required to operate any equipment or work in any condition which he reasonably believes to be unsafe. If the miner invokes his ~~or her~~ safety rights under this section, the miner shall have the right to be relieved from the assignment in dispute. The employee may be assigned to correct the condition or may be assigned to other duties until such time as the condition is resolved or corrected. No other miner shall be assigned to perform this job until the condition is corrected. The miner or his authorized representative and the company shall review the condition immediately and attempt to resolve the dispute. Should the miner not have an authorized representative, he may represent himself in the dispute. If the dispute is not settled by the company and the miner or his ~~or her~~ authorized representative, either party reserves the right to call in the commissioner or his authorized representative immediately and the dispute shall be settled on the basis of the inspector's finding with a written copy of his finding given to the company and the miner and his authorized representative. In the event no representative of the miner exists, the employee shall have the right to have the dispute resolved based on the inspector's findings. No disciplinary action shall be taken against a miner by a licensee unless the miner is found by the commissioner or his authorized representative to have acted in bad faith and without good cause in making an allegation as to unsafe equipment or working conditions.

Section 18. KRS 351.194 is amended to read as follows:

- (1) The commissioner or a majority of the board may convene a meeting of the board at which it shall consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.
- (2) If the board determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the board shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than twenty (20) days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The board may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.
- (3) The board may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.
- (4) Within ninety (90) days after hearing, the board shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the board, which may include though not be limited to the revocation, suspension, or probation of the mine license or the miner's certification.
- (5) An appeal of an order of the board shall be filed in the Circuit Court of the county in which the mining operation, where the alleged violation occurred, is located within thirty (30) days of entry of the order.

Section 19. KRS 352.140 is amended to read as follows:

- (1) No operator or superintendent of any mine worked by shaft, slope, or incline shall place in charge of any engine or drum used for lowering or hoisting any persons employed in the mine any but competent and sober engineers or drum runners. Where automatic elevators are used and all safety devices are provided, the services of a hoisting engineer are not required. Hoisting engineers and drum runners shall pass a test as to their knowledge of hoisting equipment and the precautions to be taken when raising or lowering men or materials. Certification of hoisting engineers and drum runners shall be under such conditions and by tests prescribed by the commissioner~~department~~.
- (2) No engineer in charge of such machinery shall allow any person except such as may be designated for this purpose by the operator or superintendent to interfere with any part of the machinery.
- (3) No person shall interfere with or intimidate the engineer or drum runner in the discharge of his duties.
- (4) In a mine worked by shaft, slope, or incline, no more than twenty (20) persons shall ride in any cage or car at one (1) time, without the approval of the mine inspector and the commissioner of the department, and no person shall ride on a loaded cage or car, except that where special man-cars or cages are employed to haul workmen on inclines the commissioner may regulate the method and procedure of handling of man-cars, cages, and workmen. Each cage or elevator installed after June 16, 1972, which is used for lowering and raising men shall have at least two and one-half (2-1/2) square feet of floor space for each person.

Section 20. KRS 352.190 is amended to read as follows:

For every fifty (50) men and fraction thereof employed underground, the operator of each mine shall keep on hand at the mine one (1) properly constructed stretcher, one (1) waterproof and one (1) woolen blanket, and all other necessary equipment ~~required~~^{advised} by the department.

Section 21. KRS 352.220 is amended to read as follows:

(1) The following shall apply to underground installations:

- (a) On all haulage roads, landings, and partings where men are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;
- (b) All machine feed wires shall be placed on insulators which shall be so placed as to prevent the wires coming in contact with the coal;
- (c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons ~~or animals~~ are required to travel shall be safely guarded or protected from the persons ~~or animals~~ coming in contact therewith, as provided in paragraph (a) of this subsection;
- (d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as provided for in paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;
- (e) All power wires and cables in hoisting shafts or manway compartments shall be properly insulated, substantially fixed, and well protected;
- (f) Ground wires for low-voltage circuits shall be at least one-half (1/2) as large as the circuit wires;
- (g) Extra length or long trailing cables shall be spread out in long open loops on clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables in suspended long loops shall be acceptable;
- (h) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat and spark under load shall not be used;
- (i) Single conductor trailing cables shall not be used on cutting machines;
- (j) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;
- (k) The frames of hand-held electrically driven tools and portable sump pumps shall be properly grounded, and the hand-held tools and portable pumps shall be properly protected by fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;
- (l) All pump frames and all pipe lines shall be grounded to the rail or the grounding system at ~~about~~ two hundred (200) foot intervals, except nonmetallic pipes or pipes using insulated type couplings or pipes installed remotely from track or power systems;
- (m) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track;
- (n) ~~[After June 16, 1972,]~~ All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other low-voltage circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit;
- (o) High voltage cables shall have disconnecting switches, overload protective devices, and lightning arresters at or near the outside end of the cable;
- (p) Permanent battery charging stations, permanent pump installations, motor generator sets, rotary converters, and oil filled transformers and switches used underground shall be housed in fireproof enclosures ventilated by a separate

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split of air direct to the main return. Underground stations containing transformers or circuit breakers filled with inflammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture occur, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with noninflammable liquid or inert gas. Sectional type portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places out by last open crosscuts;

- (q) All mine locomotives shall be fused or otherwise protected at the switch or at the nip;
 - (r) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. ~~After June 16, 1972,~~ Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with controls at locations recommended by the mine inspector. This does not prevent the use of belting which is being used on June 16, 1972, but the use of rubber belting shall be under such conditions as may be prescribed by the commissioner;
 - (s) Telephone lines shall be provided with lightning arresters where the lines enter the mine and at the boxes on the outside;
 - (t) Telephone lines crossing trolley wires shall be carefully guarded in a nonconductive conduit;
 - (u) Insulating mats shall be placed in front of switchboards, beside stationary motors, in decks of locomotives, and all electrical installations where required;
 - (v) Ground wires in trailing cables shall be tested periodically for open circuit and high resistance joints;
 - (w) Power circuits in tipples, buildings, cleaning plants, etc., and all inside electrical circuits shall be deenergized when not in use over a long period; and
 - (x) Where electric circuits cross over or pass under belt conveyors the wiring shall be protected by conduit.
- (2) The following shall apply to surface installations:
- (a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;
 - (b) Protective barriers shall be so constructed between high-voltage wires and telephone wires, trolley circuits, and any other similar conveyor wires or circuits as to prevent their failure by the falling of the high tension lines across the other circuits, wires, or conveyors;
 - (c) On four (4) wire circuits, the fourth or neutral wire terminating at transformers, or elsewhere, shall be of substantial construction to minimize any possibility of the wire being severed~~cut in two (2)~~ or damaged mechanically;
 - (d) On low-voltage circuits, wires shall be supported on insulators except when cables made for use without insulators, which are of a design that can be safely used without insulators, are used;
 - (e) Lightning arresters shall be installed on all circuits entering a mine, regardless of voltage. Overload protection and disconnect switches of sizes and ratings approved by the department shall also be provided;
 - (f) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;
 - (g) All transformer tanks shall be effectively grounded;
 - (h) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of dust accumulations; and
 - (i) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height.
- (3) (a) Notwithstanding any provisions of subsections (1) or (2) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1) or (2) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1) or (2) of this section; and
- (b) The department may prescribe ~~any other~~ administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

Section 22. KRS 352.230 is amended to read as follows:

- (1) ~~After June 16, 1972,~~ All electrical equipment purchased for face use in underground mines shall be of the permissible type. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.

- (2) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas ~~where necessary~~. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment and shall have a minimum of forty-five (45) days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate before using a flame-safety lamp underground. The examination shall be given by the mine inspector, blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.
- (3) No electric face equipment shall be brought ~~in by~~ ~~within the~~ last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame-safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the electric equipment shall not be taken in until the gas is removed.
- (4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%), the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.
- (5) Headlights shall be installed and maintained in a permissible and working order on all mobile and face equipment at all times the equipment is in operation.
- (6) Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.
- (7) At all times when mining equipment is being used, it shall be maintained in safe working order.

Section 23. KRS 352.260 is amended to read as follows:

- (1) Any operator of a mine shall designate only certified persons as shotfirers to prepare the cartridge and set off and discharge the shots.
- (2) Shotfirers shall at all times be under the direction of a certified ~~the~~ mine foreman.
- (3) The following conditions apply when shooting coal from the solid:
 - (a) All licensees ~~After July 15, 1982, all coal mine operators~~ engaged in shooting coal from the solid shall submit an application for a permit to the commissioner on a form prescribed by the department.
 - (b) Before said permit is issued by the commissioner he shall have an investigation conducted of the mine to determine the adequacy of the proposed solid blasting plan in complying with KRS Chapter 351 and this chapter ~~all state laws~~ and administrative regulations applicable to blasting coal in an underground mine ~~coal~~.
 - (c) The mine inspector shall have the authority to stop production at the mine by the issuance of a closure order to any operator who fails to obtain a permit when shooting coal from the solid.
- (4) When using the method of solid blasting, no more than one (1) face shall be charged or detonated simultaneously.
- (5) When shooting coal from the solid, not more than two (2) adjacent openers or cut holes shall be primed with detonators having the same delay period. The nominal delay intervals between the succeeding rows of horizons shall not be less than fifty (50) milliseconds nor more than one hundred (100) milliseconds.

Section 24. KRS 352.290 is amended to read as follows:

A suitable record book shall be kept at the mine office of every mine wherein fire bosses are employed, and immediately after the examination of the mine or any portion thereof, by a fire boss, he shall enter and sign a record of the examination in the book with ink ~~or indelible pencil~~. The record shall clearly show the time taken in making the examination, the nature and location of any danger discovered in the mine, and what has been done to correct dangerous conditions. If any danger is discovered, the fire boss shall immediately report its location to the mine foreman, or in his absence to the assistant mine foreman in charge, who shall take immediate action to remove the danger. When a station is located inside a mine the fire boss shall enter and sign a report both in the record book kept there and in a record book in the mine office on the surface. The record books of the licensee shall at all times during working hours be accessible to the mine inspector and the miner or his representative.

Section 25. KRS 352.310 is amended to read as follows:

Any fire boss who fails to perform his duties, or who makes a false report of the condition of any place in the portion of the mine allotted to him for examination, shall be suspended by the mine foreman, and his name shall be given to the mine inspector for prosecution. If he is found guilty by the board, he shall return his certificate of qualification ~~as fire boss~~ to the department.

Section 26. KRS 352.320 is amended to read as follows:

- (1) All commercial coal mines shall employ a certified mine foreman therein to properly carry out the plans and rules when approved by the commissioner of the department and to be responsible for compliance with the provisions of KRS Chapter ~~Chapters~~ 351 and this chapter ~~352~~.

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- (2) When the mine workings become so extensive that the mine foreman is unable personally to carry out the duties required of him by law, the operator or superintendent shall employ a sufficient number of persons holding suitable certificates of qualifications to act as assistants to the mine foreman, and under his instructions.

Section 27. KRS 352.340 is amended to read as follows:

The mine foreman or his assistants shall visit and carefully examine each working place in the mine at least every four (4) hours ~~or oftener~~ while the mine employees are at work. He shall examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe. He shall see that every mine liberating explosive gas is kept free of standing gas in all working places and roadways, and that all accumulations of explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery. He shall ensure that all preshift examinations are conducted by a certified person and that examinations of conveyor belts have been conducted. He shall not allow any person who may be endangered by the presence of explosive or noxious gases to enter that portion of the mine until the gases have been removed. He shall direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger ~~signs~~signals are posted upon the barricade to warn persons of existing danger. He shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss or any person working in the mine, and if it is impracticable to remove the danger at once he shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists. He or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink ~~or indelible~~ pencil in the record book provided for that purpose.

Section 28. KRS 352.350 is amended to read as follows:

- (1) The mine foreman shall notify, in writing, the licensee~~operator~~ or superintendent of the mine of his inability to comply with any of the requirements of the mining laws, and the licensee~~operator~~ or superintendent shall at once attend to the matter complained of by the mine foreman so as to enable him to comply with the mining laws.
- (2) The mine foreman shall each day enter and sign plainly with ink ~~or indelible pencil~~, in a book provided for that purpose, a report of the condition of the mine. The report shall clearly state any danger that comes under his observation during the day or is reported to him by his assistants or by the fire bosses, and shall state what action was taken to correct such danger, whether or not there is a proper supply of material on hand for the safe working of the mine, and whether or not the mining laws are being complied with. The mine foreman shall each day read carefully, and countersign with ink ~~or indelible pencil~~, all reports entered in the record book of the fire bosses.
- (3) The mine superintendent, mine foreman and assistant foreman shall be held jointly responsible for the immediate compliance with the provisions of KRS Chapter~~Chapters~~ 351 and this chapter~~[352]~~.

Section 29. KRS 352.400 is amended to read as follows:

- (1) The licensee of any mine may adopt special rules consistent with KRS Chapter~~Chapters~~ 351 and this chapter~~[352]~~ for the government and operation of his mine, and covering all the work pertaining thereto in and out of the mine. Before the rules are put into effect they shall be approved in writing by the commissioner. The rules, when adopted and approved in writing by the commissioner, shall be printed on cardboard in the language spoken by seventy-five percent (75%) or more of the employees at the mine, and shall be posted on a bulletin board or some other conspicuous place about the mine where they may be seen by the employees at the mine. Before the rules are so adopted, approved and posted, the representative of the employees at the mine shall be given a copy thereof, and be deemed to have agreed thereto, before the employees are required to obey the rules.
- (2) The mine rules shall be printed in a form prescribed by the commissioner.
- (3) The licensee shall furnish each employee a copy of the mine rules, and each employee shall sign a statement indicating his receipt of a copy of the rules and his agreement to comply with them.
- (4) The mine rules shall be included in the subjects taught during annual retraining of the mine's employees.
- ~~[(5) On or after April 9, 1996, if new mine rules require special safety equipment or protective clothing to be used or worn by the employees, the licensee shall provide the equipment or clothing to the miners at no cost to them.]~~

Section 30. KRS 352.410 is amended to read as follows:

- (1) Each superintendent shall, on behalf and at the expense of the operator, keep on hand at or within convenient distance of the mine, not to exceed 500 feet, a sufficient quantity of all materials and supplies required to preserve the safety of employees, as ordered by the mine foreman and required by law. If the superintendent cannot procure the necessary materials or supplies, he shall at once notify the mine foreman, who shall withdraw the men from the mine until the materials or supplies are received.
- (2) The superintendent shall, at least once each week, read and examine carefully and countersign all reports entered in the mine record book of the mine foreman.

- (3) The operator or superintendent shall cooperate with the mine foreman and other officials in the fulfillment of their duties under KRS ~~Chapter~~~~[Chapters]~~ 351 and this chapter~~[352]~~, and shall direct that the mine foreman and all other employees under him comply with the law, especially when his attention is called by the mine inspector or by the commissioner to any violations of the laws.
- (4) The superintendent shall keep on hand at the mine a supply of printed rules, notices, and record books required by this chapter. The superintendent shall see that rules, notices, and record books are delivered to the proper persons at the mine and are properly cared for, and that the rules and notices are posted in conspicuous places at or near the entrance to the mine and kept legible.

Section 31. KRS 352.430 is amended to read as follows:

- (1) The operator or superintendent of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.
- (2) If any inspector discovers that any mine does not conform to the provisions of KRS ~~Chapter~~~~[Chapters]~~ 351 and this chapter in respect to the safety of employees, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine, the lives or health of persons employed therein are endangered, he shall immediately issue an emergency order to the licensee or superintendent. If he deems it necessary for the immediate protection from imminent danger of bodily harm of the persons employed in the mine, he shall withdraw the men who may be endangered. If the entire mine is affected by the dangerous condition, all men shall be withdrawn and production shall be halted until all defects causing the imminently dangerous condition are corrected. If an imminent danger affects only a portion of the mine, the persons whose safety may be menaced thereby shall be withdrawn from the affected part of the mine and production halted in that area until the dangerous condition is corrected. However, where production is necessary to correct the unsafe condition, it shall be permitted to that extent, using only the necessary personnel. Production at the affected area of a mine from which men are withdrawn pursuant to this section may be resumed upon reinspection by a mine inspector and a finding by that inspector that the mine is no longer imminently unsafe.
- (3) In all emergency hearings, a departmental attorney, the Attorney General, the Commonwealth's attorney, or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the Commonwealth~~[state]~~ and defend the action.

Section 32. KRS 352.460 is amended to read as follows:

If the operator or superintendent of any mine fails to furnish to the commissioner any map required by KRS 352.450 and 352.480, the commissioner may cause a correct survey and map of the mine or extensions thereof to be made at the expense of the owner, lessee or operator of the mine, and the cost of the map shall be recoverable from the owner, lessee or operator in the same manner as debts are recoverable by law. If at any time the commissioner has reason to believe that any map furnished under KRS 352.450 and 352.480 is materially incorrect, so that it will not serve the purpose for which it was intended, he may have a survey and map made or corrected, and the expense of making the survey, map or correction shall be paid by the owner, lessee or operator of the mine, or recovered in the same manner as debts are recoverable by law; but if the map furnished by the operator or superintendent is found to be correct, the expense of the survey and drafting of the map shall be paid by the Commonwealth~~[state]~~.

Section 33. KRS 352.470 is amended to read as follows:

- (1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional engineer~~or land surveyor~~ registered in Kentucky. KRS 322.290 requires registrants to practice only in areas of competence. The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this Commonwealth~~[state]~~, and covers the period ending, ... Certifying Agent

Acknowledged before me, a, this day of

.....
SEAL"

- (2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

Section 34. The following KRS sections are repealed:

- 351.128 Underground mine employing 2 to 25 persons required to employ person with first-aid training.
 351.195 Miners required to wear safety glasses.

The Committee Substitute to **HB 436** is as follows:

HB 436, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.010 is amended to read as follows:

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- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;
 - (b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (c) "Board" means the Mining Board created in KRS 351.105;
 - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - (e) "Commissioner" means commissioner of the Department of Mines and Minerals;
 - (f) "Department" means the Department of Mines and Minerals;
 - (g) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - (h) "Excavations and workings" means the excavated portions of a mine;
 - (i) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
 - (j) "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis. However on and after June 19, 1976, all mines shall be classified as gassy or gaseous;
 - (k) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
 - (l) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
 - (m) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but and which are administered as distinct units shall be considered a separate mine;
 - (n) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
 - (o) "Open-pit mine" shall include open excavations and open-cut workings including but not limited to auger operations and highwall mining systems~~[mines]~~ for the extraction of coal;
 - (p) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
 - (q) "Permissible" ~~refers to~~~~[means that]~~ any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency~~[bureau]~~;
 - (r) "Preshift examination" means the examination of ~~a~~~~[an underground]~~ mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
 - (s) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
 - (t) "Shaft" means a vertical opening through the strata that is~~[or may be]~~ used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
 - (u) "Slope" means an inclined opening used for the same purpose as a shaft;
 - (v) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines; and
 - (w) "Supervisory personnel" means a person~~[or persons]~~ certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.
- (2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.
- (3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 2. KRS 351.020 is amended to read as follows:

- (1) The Department of Mines and Minerals shall be headed by the commissioner of the Department of Mines and Minerals.
- (2) The department shall administer all laws of the Commonwealth~~[this state]~~ relating to mines.

Section 3. KRS 351.030 is amended to read as follows:

~~[The department shall hold one (1) or more hearings on each matter brought before it.]~~ All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his or her employer for testifying, or for his failure to testify, at these hearings.

Section 4. KRS 351.040 is amended to read as follows:

- (1) Any party in interest dissatisfied with an order of the department may commence an equitable action against the department and other interested parties as defendants, to vacate or set aside, in whole or in part, any such order. The action ~~shall~~may be brought in the Circuit Court of the county where the subject matter involved in the order, or the well or workable coal bed or part thereof, is located. ~~[The court may grant relief from any unlawful or unreasonable order of the department, and render such judgment as appears to it to be equitable and just.]~~
- (2) The pendency of the action shall not of itself suspend the operation of the order of the department, but during the pendency of the action any party may secure from the court an order suspending or staying the operation of the order of the department pending the action by giving to the other parties adequate security, approved by the court, against loss due to the delay in enforcement of the order, in case the order under review is not set aside, and the court may, without security being given, suspend the operation of the order, in whole or in part, on such terms as it deems just and in accordance with the practice of courts of equity; provided, however, that the operation of an order pertaining to safety in coal mines shall not be suspended temporarily pending final decision of the court.
- (3) Appeals may be taken to the Court of Appeals as in other cases.

Section 5. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to insure at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth~~[state]~~ and sufficient additional inspectors to enable the commissioner to provide adequate surveillance off ~~[those underground]~~ coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.
- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth~~[this state]~~. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth~~[this state]~~. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person~~[Persons]~~ desiring to use a~~[their]~~ mining engineering or technology degree for practical experience credit shall file proof of having received a~~[their]~~ degree prior to examination.
- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person~~[Persons]~~ appointed as mine inspector~~[inspectors]~~, mine safety analyst~~[analysts]~~, electrical inspector~~[inspectors]~~, and mine safety instructor~~[instructors]~~ shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary

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of State.

- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Persons, other than those employed by a company, who by contractual or other rights, perform mine inspection work in any capacity, shall be familiar with mining and possess experience equal to that required of a state mine inspector. They shall also be held responsible for their conduct in the performance of their inspections and related acts. This subsection shall not apply to persons excluded by other laws or those who by agreement with the licensee make mine visits for technical and investigative work.

Section 6. KRS 351.103 is amended to read as follows:

- (1) All persons possessing valid certificates as mine inspectors, electrical inspectors, mine safety instructors, assistant mine foreman, mine foreman, ~~fire boss,~~ shotfirer, and other mining specialties as established by the board, or certified miner shall be eligible to work at any time as miners, provided they fulfill the annual requirements for retraining and reeducation as provided in KRS 351.105.
- (2) Supervisory, clerical, and technically-trained employees of the mine operator whose work contributes only indirectly to mine operations shall not be required to possess a miner's certificate of competency and qualification.

Section 7. KRS 351.105 is amended to read as follows:

- (1) The Board of Miner Training, Education, and Certification is abolished and shall be immediately replaced by the Mining Board.
- (2) The board shall be made up of eight (8) persons, all of whom shall be citizens of Kentucky and from the coal industry in Kentucky. The board's membership shall reflect a fair representation from eastern Kentucky and western Kentucky, large and small operations, and union and nonunion coal production. The Governor shall appoint the members of the board to include:
 - (a) Three (3) members representing management; the Alliance of Kentucky Coal shall submit three (3) nominees for each management position on the board;
 - (b) Three (3) members representing labor; the United Mine Workers of America shall submit three (3) nominees for each labor position on the board;
 - (c) The commissioner of the Department of Mines and Minerals; and
 - (d) The director of the Division of Miner Training, Education, and Certification.

The commissioner of the department shall serve as chairman. The director of the Division of Miner Training, Education, and Certification shall be a nonvoting member.

- (3) Excluding the commissioner and the director of the Division of Miner Training, Education, and Certification, initial appointments to the board shall be made in the following manner and shall reflect equal representation as to number and term regarding both the management and the labor positions: two (2) members for a period of two (2) years; two (2) members for a period of three (3) years; and two (2) members for a period of four (4) years. After the initial appointments, members of the board shall be appointed to four (4)-year terms. Members of the board, including members of the Board of Miner Training, Education, and Certification abolished by this section, may be reappointed at the expiration of their previous appointment at the pleasure of the Governor. Members shall continue to serve until a successor is appointed and qualified.
- ~~(4) As soon as practicable after the members of the board have been appointed, the commissioner shall call an organizational meeting to implement the provisions of this section.~~
- ~~(5)~~ Two (2) of the persons appointed to the board shall be employed in nonsupervisory positions at mines in this ~~Commonwealth~~^{state} and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Two (2) of the persons shall be employed in supervisory positions by coal companies operating in the ~~Commonwealth~~^{state} and shall have a minimum of five (5) years' experience in the coal mining industry and a mine foreman's certificate. One (1) of each of the members holding supervisory and nonsupervisory mine positions shall have a minimum of five (5) years' practical experience working in a surface or underground coal mine. The director of the Division of Miner Training, Education, and Certification shall have a minimum of five (5) years' practical underground mining experience.
- ~~(5)(6)~~ Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the Governor within thirty (30) days from the date the vacancy occurs.
- ~~(6)(7)~~ A quorum of the board shall be five (5) voting members; the board may act officially by a majority of those members who are present, except that no action shall be taken without a majority of affirmative votes. Action concerning revocation, suspension, or probation of a mine's license or a miner's certification shall require two-thirds (2/3) of the voting members present. When necessary for the commissioner to be absent or to recuse himself, he is empowered to name an alternate to serve as chairman.

~~(7)~~~~(8)~~ Each member of the board shall receive one hundred fifty dollars (\$150) each day while actually engaged in the performance of the work of the board, shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, and shall receive reimbursement for food and lodging at a reasonable and customary rate, which shall be paid out of the State Treasury upon proper requisition approved by the commissioner.

~~(8)~~~~(9)~~ The board shall act on all matters brought before it by the department and, after hearing, issue orders with respect to these matters.

~~(9)~~~~(10)~~ The board shall meet periodically at the direction of the commissioner to review this chapter and KRS Chapter~~Chapters 351 and~~ 352 and make recommendations regarding the amendment of those chapters.

~~(10)~~~~(11)~~ The board shall review and approve all administrative regulations proposed by the department that relate to the mining of coal or the certification of miners before those administrative regulations~~proposals~~ are promulgated in accordance with KRS Chapter 13A.

~~(11)~~~~(12)~~ No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

~~(12)~~~~(13)~~ The board may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its programs and standards.

Section 8. KRS 351.107 is amended to read as follows:

(1) A person~~Persons~~ desiring to obtain experience as a shotfirer may not charge or detonate explosives in an underground~~a~~ mine unless he or she is~~they are~~ under the direction and within sight and sound of a certified shotfirer. No person shall charge or detonate explosives within an underground~~a~~ mine unless that person has successfully completed a training program and passed a test administered by the department. The test shall include at a minimum a determination of the person's ability to test for mine gases and to safely handle and detonate explosives in an underground coal mine.

(2) The commissioner shall issue a shotfirer's certificate to the person upon successfully passing the test.

~~(3) The board shall determine when the training program for shotfirers is sufficiently available to the work force in the state and thereafter shall establish the effective date after which the requirements of this section shall apply to all persons detonating explosives in underground coal mines.]~~

Section 9. KRS 351.108 is amended to read as follows:

Mine superintendents shall hold a mine foreman certificate issued by the commissioner.

Section 10. KRS 351.109 is amended to read as follows:

(1) An individual is a qualified and certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if he has at least one (1) year of experience under direct supervision of a qualified electrician in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of written tests administered by the department and required in subsection (2) of this section.

(2) The series of written tests shall include, but not be limited to, the following subjects:

- (a) Direct current theory and application;
- (b) Alternating current theory and application;
- (c) Electric equipment and circuits;
- (d) Permissibility of electric equipment;
- (e) Requirements of both federal and state laws; and
- (f) Pertinent sections of the National Electrical Code.

(3) A score of at least eighty (80) percent on each of the written tests shall be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that one (1) percentage point shall be added to an individual's score in each test for each additional year of experience beyond the one (1) year minimum requirement specified in subsection (1) of this section; however, in no case shall an individual be given more than five (5) percentage points for such practical experience.

(4) An individual may, within thirty (30) days from the date on which he received notification from the department of his test scores, repeat those sections on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a minimum of thirty (30) days from the date of receipt of notification of the initial retest scores shall elapse prior to such further retesting, whereupon the entire series of written tests shall be retaken.

(5) An individual qualified and certified in accordance with this section shall, in order to retain qualification and certification, satisfactorily complete annually a retraining program approved by the department.

Section 11. KRS 351.120 is amended to read as follows:

- (1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner who has passed the examination given by direction of the board for that position.
- (2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner and is authorized to act as such.
- (3) Certificates issued to mine foremen and assistant mine foremen shall be classified as follows:
 - (a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; and
 - (b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman.
- (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.
- (5) The class of mine foreman's certificate awarded shall be determined by the board according to the experience of the applicant.
- (6) No certificate shall be granted to any person who does not present to the board satisfactory evidence, in the form of affidavits, that the applicant has had the required practical experience in underground or surface coal mines. A data sheet shall be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms shall be furnished by the department. For the purpose of this section, persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for any mine foreman or assistant mine foreman certificate. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology degree as credit for practical experience toward a mine foreman or assistant mine foreman certificate shall file proof of having received their degree prior to the examination.
- (7) Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.
- (8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in postmining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant, or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.
- (9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected by this section.
- (10) When approved by the commissioner, a person who has successfully completed any mine foreman or assistant mine foreman examination may be granted a temporary certification that is valid only until the board acts upon his or her certification at its next regularly scheduled meeting.
- (11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

Section 12. KRS 351.1291 is amended to read as follows:

- (1) All inexperienced surface coal miners shall complete a sixteen (16) hour course of instruction devised or approved by the department in subjects including, but not limited to: accident prevention, cutting and welding, equipment operation, fire protection, first-aid methods, ground control and transportation, handling and use of explosives, mine communications, mine electrical safety standards, mining law, including ~~the statutory [miners']~~ rights of miners, safety around bins and hoppers, and any other subjects deemed appropriate by the department. For purposes of this section, "inexperienced coal

miners" means all persons who have not previously worked at least forty-five (45) days at a surface coal mine in this Commonwealth.

- (2) All surface coal miners shall complete an eight (8) hour course of annual retraining devised or approved by the department in the subjects identified in subsection (1) of this section.
- (3) The commissioner shall certify all surface coal miners who complete the courses of instruction required in subsections (1) and (2) of this section.

Section 13. KRS 351.160 is amended to read as follows:

- (1) The commissioner of the department shall annually make a report to the Governor of his proceedings during the preceding calendar year. The annual report shall be prepared and printed as soon as possible after the close of the calendar year. The annual report shall cover the complete operation of the mines in this ~~Commonwealth~~^{state} during the preceding calendar year, enumerating all accidents occurring in or about any such mines during that year, and giving such other information as the commissioner deems useful, and making such suggestions as he deems important as to further legislation on the subject of mining.
- (2) The commissioner shall keep and index a permanent record of all inspections made by himself and of all reports relating to inspection of mines furnished to him by mine inspectors. All such records of the department shall be public records and shall, at all times, be open to the inspection of the public, and shall be laid before the Governor upon his request at any time.
- (3) The department shall furnish certified copies of any such records, when requested to do so, upon payment of such fee as is generally charged by courts of record for certified copies. Such fee shall be paid into the Treasury of the state.

Section 14. KRS 351.170 is amended to read as follows:

The licensee of each commercial coal mine shall give at the end of each calendar year accurate information, on blank forms~~[blanks]~~ furnished by the commissioner, as to the number of accidents that have occurred, the number of persons employed, the tons of coal mined, and any other related information that the commissioner requests.

Section 15. KRS 351.192 is amended to read as follows:

Any person who is qualified by a federal or state agency to perform mine rescue planning and recovery operations, including mine rescue instructors and mine rescue team members, and any person designated by an operator furnishing a mine rescue team to supervise, assist in planning, or provide service thereto, who in good faith performs, or fails to perform, any act or service in connection with such mine rescue planning and recovery operations shall not be liable for any civil damages as a result of any such acts or omissions~~[, and shall not be required to participate, except voluntarily, in any investigation, including any administrative hearing, in connection therewith; provided however, that nothing contained herein shall be construed to exempt from liability any person responsible for an overall mine rescue operation, including an operator of an affected facility and any person assuming responsibility therefor under federal or state statutes or regulations].~~

Section 16. KRS 352.140 is amended to read as follows:

- (1) No operator or superintendent of any mine worked by shaft, slope, or incline shall place in charge of any engine or drum used for lowering or hoisting any persons employed in the mine any but competent and sober engineers or drum runners. Where automatic elevators are used and all safety devices are provided, the services of a hoisting engineer are not required. Hoisting engineers and drum runners shall pass a test as to their knowledge of hoisting equipment and the precautions to be taken when raising or lowering men or materials. Certification of hoisting engineers and drum runners shall be under such conditions and by tests prescribed by the ~~commissioner~~^{department}.
- (2) No engineer in charge of such machinery shall allow any person except such as may be designated for this purpose by the operator or superintendent to interfere with any part of the machinery.
- (3) No person shall interfere with or intimidate the engineer or drum runner in the discharge of his duties.
- (4) In a mine worked by shaft, slope, or incline, no more than twenty (20) persons shall ride in any cage or car at one (1) time, without the approval of the mine inspector and the commissioner of the department, and no person shall ride on a loaded cage or car, except that where special man-cars or cages are employed to haul workmen on inclines the commissioner may regulate the method and procedure of handling of man-cars, cages, and workmen. Each cage or elevator installed after June 16, 1972, which is used for lowering and raising men shall have at least two and one-half (2-1/2) square feet of floor space for each person.

Section 17. KRS 352.190 is amended to read as follows:

For every fifty (50) men and fraction thereof employed underground, the operator of each mine shall keep on hand at the mine one (1) properly constructed stretcher, one (1) waterproof and one (1) woolen blanket, and all other necessary equipment required~~[advised]~~ by the department.

Section 18. KRS 352.220 is amended to read as follows:

- (1) The following shall apply to underground installations:
 - (a) On all haulage roads, landings, and partings where men are required to regularly work or pass under bare power

wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;

- (b) All machine feed wires shall be placed on insulators which shall be so placed as to prevent the wires coming in contact with the coal;
- (c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons~~[or animals]~~ are required to travel shall be safely guarded or protected from the persons~~[or animals]~~ coming in contact therewith, as provided in paragraph (a) of this subsection;
- (d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as provided for in paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;
- (e) All power wires and cables in hoisting shafts or manway compartments shall be properly insulated, substantially fixed, and well protected;
- (f) Ground wires for low-voltage circuits shall be at least one-half (1/2) as large as the circuit wires;
- (g) Extra length or long trailing cables shall be spread out in long open loops on clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables in suspended long loops shall be acceptable;
- (h) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat and spark under load shall not be used;
- (i) Single conductor trailing cables shall not be used on cutting machines;
- (j) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;
- (k) The frames of hand-held electrically driven tools and portable sump pumps shall be properly grounded, and the hand-held tools and portable pumps shall be properly protected by fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;
- (l) All pump frames and all pipe lines shall be grounded to the rail or the grounding system at~~[about]~~ two hundred (200) foot intervals, except nonmetallic pipes or pipes using insulated type couplings or pipes installed remotely from track or power systems;
- (m) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track;
- (n) ~~[After June 16, 1972,]~~ All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other low-voltage circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit;
- (o) High voltage cables shall have disconnecting switches, overload protective devices, and lightning arresters at or near the outside end of the cable;
- (p) Permanent battery charging stations, permanent pump installations, motor generator sets, rotary converters, and oil filled transformers and switches used underground shall be housed in fireproof enclosures ventilated by a separate split of air direct to the main return. Underground stations containing transformers or circuit breakers filled with inflammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture occur, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with noninflammable liquid or inert gas. Sectional type portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places out by last open crosscuts;
- (q) All mine locomotives shall be fused or otherwise protected at the switch or at the nip;
- (r) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire

extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. ~~[After June 16, 1972,]~~ Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with controls at locations recommended by the mine inspector. This does not prevent the use of belting which is being used on June 16, 1972, but the use of rubber belting shall be under such conditions as may be prescribed by the commissioner;

- (s) Telephone lines shall be provided with lightning arresters where the lines enter the mine and at the boxes on the outside;
- (t) Telephone lines crossing trolley wires shall be carefully guarded in a nonconductive conduit;
- (u) Insulating mats shall be placed in front of switchboards, beside stationary motors, in decks of locomotives, and all electrical installations where required;
- (v) Ground wires in trailing cables shall be tested periodically for open circuit and high resistance joints;
- (w) Power circuits in tipples, buildings, cleaning plants, etc., and all inside electrical circuits shall be deenergized when not in use over a long period; and
- (x) Where electric circuits cross over or pass under belt conveyors the wiring shall be protected by conduit.

(2) The following shall apply to surface installations:

- (a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;
- (b) Protective barriers shall be so constructed between high-voltage wires and telephone wires, trolley circuits, and any other similar conveyor wires or circuits as to prevent their failure by the falling of the high tension lines across the other circuits, wires, or conveyors;
- (c) On four (4) wire circuits, the fourth or neutral wire terminating at transformers, or elsewhere, shall be of substantial construction to minimize any possibility of the wire being severed~~[cut in two (2)]~~ or damaged mechanically;
- (d) On low-voltage circuits, wires shall be supported on insulators except when cables made for use without insulators, which are of a design that can be safely used without insulators, are used;
- (e) Lightning arresters shall be installed on all circuits entering a mine, regardless of voltage. Overload protection and disconnect switches of sizes and ratings approved by the department shall also be provided;
- (f) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;
- (g) All transformer tanks shall be effectively grounded;
- (h) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of dust accumulations; and
- (i) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height.

- (3) (a) Notwithstanding any provisions of subsections (1) or (2) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1) or (2) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1) or (2) of this section; and
- (b) The department may prescribe ~~any other~~ administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

Section 19. KRS 352.230 is amended to read as follows:

- (1) ~~[After June 16, 1972,]~~ All electrical equipment purchased for face use in underground mines shall be of the permissible type. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.
- (2) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas ~~[where necessary]~~. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment and shall have a minimum of forty-five (45) days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate before using a flame-safety lamp underground. The examination shall be given by the mine inspector, blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.

- (3) No electric face equipment shall be brought ~~in by~~~~[within the]~~ last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame-safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the electric equipment shall not be taken in until the gas is removed.
- (4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%), the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.
- (5) Headlights shall be installed and maintained in a permissible and working order on all mobile and face equipment at all times the equipment is in operation.
- (6) Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.
- (7) At all times when mining equipment is being used, it shall be maintained in safe working order.

Section 20. KRS 352.260 is amended to read as follows:

- (1) Any operator of a mine shall designate only certified persons as shotfirers to prepare the cartridge and set off and discharge the shots.
- (2) Shotfirers shall at all times be under the direction of ~~a certified~~~~[the]~~ mine foreman.
- (3) The following conditions apply when shooting coal from the solid:
 - (a) ~~All licensees~~~~[After July 15, 1982, all coal mine operators]~~ engaged in shooting coal from the solid shall submit an application for a permit to the commissioner on a form prescribed by the department.
 - (b) Before said permit is issued by the commissioner he shall have an investigation conducted of the mine to determine the adequacy of the proposed solid blasting plan in complying with KRS Chapter 351 and this chapter~~[all state laws]~~ and administrative regulations applicable to blasting coal in an underground mine~~[coal]~~.
 - (c) The mine inspector shall have the authority to stop production at the mine by the issuance of a closure order to any operator who fails to obtain a permit when shooting coal from the solid.
- (4) When using the method of solid blasting, no more than one (1) face shall be charged or detonated simultaneously.
- (5) When shooting coal from the solid, not more than two (2) adjacent openers or cut holes shall be primed with detonators having the same delay period. The nominal delay intervals between the succeeding rows of horizons shall not be less than fifty (50) milliseconds nor more than one hundred (100) milliseconds.

Section 21. KRS 352.290 is amended to read as follows:

A suitable record book shall be kept at the mine office of every mine wherein fire bosses are employed, and immediately after the examination of the mine or any portion thereof, by a fire boss, he shall enter and sign a record of the examination in the book with ink~~[or indelible pencil]~~. The record shall clearly show the time taken in making the examination, the nature and location of any danger discovered in the mine, and what has been done to correct dangerous conditions. If any danger is discovered, the fire boss shall immediately report its location to the mine foreman, or in his absence to the assistant mine foreman in charge, who shall take immediate action to remove the danger. When a station is located inside a mine the fire boss shall enter and sign a report both in the record book kept there and in a record book in the mine office on the surface. The record books of the licensee shall at all times during working hours be accessible to the mine inspector and the miner or his representative.

Section 22. KRS 352.310 is amended to read as follows:

Any fire boss who fails to perform his duties, or who makes a false report of the condition of any place in the portion of the mine allotted to him for examination, shall be suspended by the mine foreman, and his name shall be given to the mine inspector for prosecution. If he is found guilty by the board, he shall return his certificate of qualification~~[as fire boss]~~ to the department.

Section 23. KRS 352.320 is amended to read as follows:

- (1) All commercial coal mines shall employ a certified mine foreman therein to properly carry out the plans and rules when approved by the commissioner of the department and to be responsible for compliance with the provisions of KRS Chapter~~[Chapters]~~ 351 and this chapter~~[352]~~.
- (2) When the mine workings become so extensive that the mine foreman is unable personally to carry out the duties required of him by law, the operator or superintendent shall employ a sufficient number of persons holding suitable certificates of qualifications to act as assistants to the mine foreman, and under his instructions.

Section 24. KRS 352.340 is amended to read as follows:

The mine foreman or his assistants shall visit and carefully examine each working place in the mine at least every four (4) hours~~or oftener]~~ while the mine employees are at work. He shall examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe. He shall see that every mine liberating explosive gas is kept free of standing gas in all working places and roadways, and that all accumulations of

explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery. He shall ensure that all preshift examinations are conducted by a certified person and that examinations of conveyor belts have been conducted. He shall not allow any person who may be endangered by the presence of explosive or noxious gases to enter that portion of the mine until the gases have been removed. He shall direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger ~~signs~~~~[signals]~~ are posted upon the barricade to warn persons of existing danger. He shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss or any person working in the mine, and if it is impracticable to remove the danger at once he shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists. He or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink~~[or indelible]~~ pencil in the record book provided for that purpose.

Section 25. KRS 352.350 is amended to read as follows:

- (1) The mine foreman shall notify, in writing, the ~~licensee~~~~[operator]~~ or superintendent of the mine of his inability to comply with any of the requirements of the mining laws, and the ~~licensee~~~~[operator]~~ or superintendent shall at once attend to the matter complained of by the mine foreman so as to enable him to comply with the mining laws.
- (2) The mine foreman shall each day enter and sign plainly with ink~~[or indelible pencil]~~, in a book provided for that purpose, a report of the condition of the mine. The report shall clearly state any danger that comes under his observation during the day or is reported to him by his assistants or by the fire bosses, and shall state what action was taken to correct such danger, whether or not there is a proper supply of material on hand for the safe working of the mine, and whether or not the mining laws are being complied with. The mine foreman shall each day read carefully, and countersign with ink~~[or indelible pencil]~~, all reports entered in the record book of the fire bosses.
- (3) The mine superintendent, mine foreman and assistant foreman shall be held jointly responsible for the immediate compliance with the provisions of KRS ~~Chapter~~~~[Chapters]~~ 351 and ~~this chapter~~~~[352]~~.

Section 26. KRS 352.400 is amended to read as follows:

- (1) The licensee of any mine may adopt special rules consistent with KRS ~~Chapter~~~~[Chapters]~~ 351 and ~~this chapter~~~~[352]~~ for the government and operation of his mine, and covering all the work pertaining thereto in and out of the mine. Before the rules are put into effect they shall be approved in writing by the commissioner. The rules, when adopted and approved in writing by the commissioner, shall be printed on cardboard in the language spoken by seventy-five percent (75%) or more of the employees at the mine, and shall be posted on a bulletin board or some other conspicuous place about the mine where they may be seen by the employees at the mine. Before the rules are so adopted, approved and posted, the representative of the employees at the mine shall be given a copy thereof, and be deemed to have agreed thereto, before the employees are required to obey the rules.
- (2) The mine rules shall be printed in a form prescribed by the commissioner.
- (3) The licensee shall furnish each employee a copy of the mine rules, and each employee shall sign a statement indicating his receipt of a copy of the rules and his agreement to comply with them.
- (4) The mine rules shall be included in the subjects taught during annual retraining of the mine's employees.

~~[(5) On or after April 9, 1996, if new mine rules require special safety equipment or protective clothing to be used or worn by the employees, the licensee shall provide the equipment or clothing to the miners at no cost to them.]~~

Section 27. KRS 352.410 is amended to read as follows:

- (1) Each superintendent shall, on behalf and at the expense of the operator, keep on hand at or within convenient distance of the mine, not to exceed 500 feet, a sufficient quantity of all materials and supplies required to preserve the safety of employees, as ordered by the mine foreman and required by law. If the superintendent cannot procure the necessary materials or supplies, he shall at once notify the mine foreman, who shall withdraw the men from the mine until the materials or supplies are received.
- (2) The superintendent shall, at least once each week, read and examine carefully and countersign all reports entered in the mine record book of the mine foreman.
- (3) The operator or superintendent shall cooperate with the mine foreman and other officials in the fulfillment of their duties under KRS ~~Chapter~~~~[Chapters]~~ 351 and ~~this chapter~~~~[352]~~, and shall direct that the mine foreman and all other employees under him comply with the law, especially when his attention is called by the mine inspector or by the commissioner to any violations of the laws.
- (4) The superintendent shall keep on hand at the mine a supply of printed rules, notices, and record books required by this chapter. The superintendent shall see that rules, notices, and record books are delivered to the proper persons at the mine and are properly cared for, and that the rules and notices are posted in conspicuous places at or near the entrance to the mine and kept legible.

Section 28. KRS 352.430 is amended to read as follows:

- (1) The operator or superintendent of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.
- (2) If any inspector discovers that any mine does not conform to the provisions of KRS ~~Chapter~~Chapter 351 and this chapter in respect to the safety of employees, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine, the lives or health of persons employed therein are endangered, he shall immediately issue an emergency order to the licensee or superintendent. If he deems it necessary for the immediate protection from imminent danger of bodily harm of the persons employed in the mine, he shall withdraw the men who may be endangered. If the entire mine is affected by the dangerous condition, all men shall be withdrawn and production shall be halted until all defects causing the imminently dangerous condition are corrected. If an imminent danger affects only a portion of the mine, the persons whose safety may be menaced thereby shall be withdrawn from the affected part of the mine and production halted in that area until the dangerous condition is corrected. However, where production is necessary to correct the unsafe condition, it shall be permitted to that extent, using only the necessary personnel. Production at the affected area of a mine from which men are withdrawn pursuant to this section may be resumed upon reinspection by a mine inspector and a finding by that inspector that the mine is no longer imminently unsafe.
- (3) In all emergency hearings, a departmental attorney, the Attorney General, the Commonwealth's attorney, or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the Commonwealth~~(state)~~ and defend the action.

Section 29. KRS 352.460 is amended to read as follows:

If the operator or superintendent of any mine fails to furnish to the commissioner any map required by KRS 352.450 and 352.480, the commissioner may cause a correct survey and map of the mine or extensions thereof to be made at the expense of the owner, lessee or operator of the mine, and the cost of the map shall be recoverable from the owner, lessee or operator in the same manner as debts are recoverable by law. If at any time the commissioner has reason to believe that any map furnished under KRS 352.450 and 352.480 is materially incorrect, so that it will not serve the purpose for which it was intended, he may have a survey and map made or corrected, and the expense of making the survey, map or correction shall be paid by the owner, lessee or operator of the mine, or recovered in the same manner as debts are recoverable by law; but if the map furnished by the operator or superintendent is found to be correct, the expense of the survey and drafting of the map shall be paid by the Commonwealth~~(state)~~.

Section 30. KRS 352.470 is amended to read as follows:

- (1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional engineer or land surveyor registered in Kentucky. KRS 322.290 requires registrants to practice only in areas of competence. The certification shall read as follows:

"I, the undersigned, hereby certify that, to the best of my knowledge and belief, this map is correct, and that shows to the best of my knowledge and belief all the information required by the mining laws of this Commonwealth are set out within~~(state)~~, and covers the period ending, ... Certifying Agent

Acknowledged before me, a, this day of

.....
.....SEAL"

- (2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

Section 31. The following KRS sections are repealed:

351.128 Underground mine employing 2 to 25 persons required to employ person with first-aid training.

351.195 Miners required to wear safety glasses.

The Committee on Licensing and Occupations reported **HB 273, HB 463, HB 466, and HB 472** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 273, AN ACT relating to certified public accountants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.220 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Board" means the State Board of Accountancy;
- (2) "State" includes and means any state, territory, or insular possession of the United States, or the District of Columbia;
- (3) "Public accountant" means a public accountant issued a license~~(permit)~~ to practice by the Commonwealth of Kentucky under the Public Accounting Act of 1946 as amended;
- (4) "Attest," "attesting," or "attestation," when used with reference to financial information or the practice of public accountancy, means to issue, or the issuance of, opinions, reports, or other forms of language which state or imply

assurance as to the reliability of any:

- (a) Financial information; or
 - (b) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, administrative regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate, when such opinions, reports, or other forms of language are accompanied by or include any name, title, or wording that indicates that the person or firm issuing them is:
 1. An accountant or auditor;
 2. Has expert knowledge in accounting or auditing; or
 3. That his *or her* or the firm's work has been performed in accordance with the applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities, as recognized by the board by administrative regulation. The terms include forms of language which disclaim an opinion when the forms of language are conventionally understood to imply any assurance as to the reliability of the financial information referred to and expertise on the part of the person uttering the language; and any other form of language which is conventionally understood to imply such assurance and expertise; or which indicates certain procedures have been performed in accordance with applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities, as recognized by the board by administrative regulation;
- (5) **"Regulated activities"**~~[Practice of or practicing public accountancy]~~ means the offering to perform or the performance for a client or potential client by a person or firm **holding a license issued under this chapter**~~[holding himself or itself out to the public as a licensee]~~ of one (1) or more types of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or one (1) or more types of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. This definition shall not prohibit anyone who is not a certified public accountant from performing accounting services, such as the preparation of tax returns or financial statements, for which attestation by the preparer is not required;
- (6) "Firm" means a sole proprietorship, partnership, professional service corporation, or any other form of business organization **that is authorized to operate under**~~[engaged solely in the practice of public accountancy that is not otherwise prohibited from operating by]~~ the laws of this Commonwealth,~~[and which]~~ complies with the provisions of this chapter, **and is issued a license to practice by the board;**
- (7) **"License"**~~[Certificate]~~ means a **license**~~[certificate]~~ as a "certified public accountant" issued pursuant to this chapter~~[or corresponding provisions of prior law]~~;
- (8) "Licensee" means a certified public accountant, firm, or public accountant, holding a **license**~~[permit]~~ to practice~~[public accounting]~~ issued under this chapter;
- (9)~~[(10)]~~ **"Quality enhancement review"** means a study, appraisal, or review by the board of one (1) or more aspects of the professional work of a person or firm in the practice of public accountancy;
- ~~(10)~~ **"Peer"**~~[Quality]~~ review" means a study, appraisal, or review of one (1) or more aspects of the professional work of a person or firm **licensed to practice**~~[in the practice of public accountancy]~~ and may include a quality assurance or peer review, or any internal review or inspection that is required by professional standards relating to quality control policies and procedures~~[The term shall not include a positive enforcement program of a state accountancy board]; [and]~~
- ~~(10)~~~~[(11)]~~ "Review committee" means any person or persons carrying out, administering, or overseeing a **peer**~~[quality]~~ review program; **and**
- (11) "Substantial equivalency" means a determination by the board or its designee that the education, examination, and experience requirements in the statutes and administrative regulations of another state for the licensing of a certified public accountant are comparable or better than those contained in the Uniform Accountancy Act issued by the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASB), or that an individual certified public accountant's education, examination, and experience qualifications are comparable or exceed these national standards.**

Section 2. KRS 325.230 is amended to read as follows:

- (1) There is hereby created a State Board of Accountancy. The board shall consist of seven (7) members, appointed by the Governor. Six (6) of the members shall be certified public accountants. One (1) of the members shall be a citizen-at-large who is not a certified public accountant. Members serving on the board as of July 15, 1994, shall retain their appointments until their terms expire. Whenever an appointment is to be made, the Kentucky Society of Certified Public Accountants shall submit to the Governor the names of three (3) persons for each vacancy to be filled. All persons recommended shall be qualified for membership on the board, and the Governor shall appoint one (1) of the three (3) recommended. Members of the board shall be citizens of the United States and residents of this state and the certified public accountant members shall hold **licenses**~~[permits]~~ to practice issued under the provisions of this chapter. Of the new members appointed to the

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board, as provided by this section, one (1) member shall be appointed for a term of one (1) year and one (1) member shall be appointed for a term of four (4) years from June 19, 1976. Succeeding appointments to the board shall be for a term of four (4) years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office, a member shall continue to serve until his successor shall have been appointed and shall have qualified. The Governor shall remove from the board any member whose ~~license~~^{permit} to practice is not renewed or which has become void, revoked, or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause.

- (2) Each member of the board shall be paid one hundred dollars (\$100) for each day spent in the discharge of his official duties and shall be reimbursed for his actual and necessary expenses therein incurred.

Section 3. KRS 325.240 is amended to read as follows:

The board shall elect annually a president, a secretary and a treasurer from its members. The office of secretary and treasurer may be held by the same individual. The board may ~~promulgate~~^{adopt}, and amend from time to time, ~~administrative~~ regulations, in accordance with the provisions of KRS Chapter 13A, for the orderly conduct of its affairs and for the administration of this chapter. The board may also promulgate, and amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accounting. A majority of the board shall constitute a quorum for the transaction of business. The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings, and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of said records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said records. ~~[The board shall have printed and published for public distribution, in September of each year, an annual register which shall contain the names, arranged alphabetically by classifications, of all individuals and firms holding permits to practice under this chapter; the names of the members of the board; and such other matters as may be deemed proper by the board. Copies of said registers shall be mailed to each registered practitioner.]~~ The board may employ an executive director and such other personnel as it deems necessary in its administration and enforcement of this chapter. It may appoint such committees or persons, to advise or assist it in the administration and enforcement, as it may see fit. It may retain its own counsel to advise and assist it, in addition to such advice and assistance as is provided by the Attorney General of this state.

Section 4. KRS 325.261 is amended to read as follows:

~~[(1)]~~ The ~~license~~^{certificate} of "certified public accountant" shall be granted by the board to any person who satisfies the following requirements:

~~(1)(a)~~ Is no less than eighteen (18) years of age;

~~(2)(b)~~ Is of good moral character;

~~(3)(c)~~ Meets the following educational credentials prior to applying for the examination:

~~(a)(1)~~ Has a baccalaureate degree or master's degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, as defined in administrative regulations promulgated by the board; or

~~(b)(2)~~ Beginning in the year 2000 with a new examination applicant, approved to sit for the first examination of the year or subsequent examination, has completed one hundred and fifty (150) college semester hours which include a baccalaureate degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, as defined in administrative regulations promulgated by the board;

~~(4)(d)~~ Has one (1) year of ~~public~~ accounting or attest experience obtained while employed in an accounting or auditing position by in a public practice, academia, industry, or government that shall be verified by an accounting firm and under the supervision of a certified public accountant who, during the time being verified, held an active license ~~a certificate and an active license or an active permit~~ to practice ~~public accountancy~~ from any state ~~as determined by administrative regulations promulgated by the board. The supervising certified public accountant's license or permit shall be active during the time he supervises the applicant;~~

~~(5)(e)~~ Passes a board-approved written examination in accounting, auditing, and other related subjects as the board deems appropriate. To be eligible to apply for the examination, a person shall first satisfy requirements of subsections (1), (2), and (3) ~~subsection (1)(a), (b), and (c)~~ of this section; and

~~(6)(f)~~ Submits a complete ~~an~~ application for a license to practice ~~certificate~~ as a certified public accountant in accordance with Section 8 of this Act ~~on a form prescribed by the board and accompanied by a fee not to exceed one hundred dollars (\$100).~~

~~[(2)]~~ The experience requirement of subsection (1)(d) of this section may alternatively be satisfied by having obtained two (2) years of experience while under the supervision of a certified public accountant who, during the time he supervised the applicant, held a certificate and an active license or an active permit to practice public accountancy from any state. This experience may be obtained in any of the ways set out in paragraphs (a) and (b) of this subsection, as determined by administrative regulations promulgated by the board:

~~(a)~~ Private enterprise, a governmental agency, or an institution of higher education in an accounting or auditing

~~position which required the performance of any auditing, accounting, or tax services; or~~

~~(b) Teaching of accounting in an institution of higher education that grants a degree which qualifies a person to sit for the Uniform Certified Public Accountants Examination under this chapter.~~

~~(3) Experience gained under subsection (1) (d) of this section may be combined with experience gained under subsection (2) of this section to satisfy the two (2) years of experience required by subsection (2) of this section.]~~

Section 5. KRS 325.280 is amended to read as follows:

- (1) The board may issue a license~~[certificate and permit]~~ to practice by reciprocity, if the applicant submits an application for a license~~[certificate and permit]~~ to practice public accountancy, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board, and meets the following requirements:
 - (a) The applicant received a grade on the Uniform Certified Public Accountants Examination in another state that was equivalent to a passing grade at the time in this Commonwealth;
 - (b) The applicant holds a valid active license~~[certificate, active permit]~~, and is in good standing as a certified public accountant, issued under the laws of any other state; and
 - (c)
 1. The applicant meets all current experience requirements in this Commonwealth at the time application is made; or
 2. ~~[At the time of issuance of the applicant's certificate and permit to practice in the other state, the applicant met all experience requirements then in effect in this Commonwealth; or~~
 3. Within the ten (10) years immediately preceding the application had four (4) years of experience in the practice of public accountancy acceptable to the board upon which the license~~[certificate]~~ was based.
- (2) The board may issue a license~~[certificate and permit]~~ to practice public accountancy without examination to an applicant who holds a valid license~~[certificate]~~ to engage in the practice of public accountancy in good standing from a foreign country if:
 - (a) The applicant's foreign country makes similar provisions to allow a person who holds a valid license~~[certificate]~~ to practice public accountancy issued by this Commonwealth to obtain that foreign country's comparable designation;
 - (b) The authority of the foreign country that issued the designation regulates the practice of public accountancy including the issuance of reports upon financial statements;
 - (c) The foreign designation was granted upon education and examination requirements which were established by the foreign authority or law and were substantially equivalent to those in effect in this Commonwealth at the time the foreign designation was granted;
 - (d) The applicant satisfies the applicable experience requirement contained in paragraph (c) of subsection (1) of this section;
 - (e) The applicant has successfully passed a uniform qualifying examination on United States national standards and an examination on the law and administrative regulations of the board; and
 - (f) The applicant submits an application for a license~~[certificate and permit]~~ to practice public accountancy, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board.
- (3) The board may issue a license to practice to an applicant whose principal place of business is not in this state and who holds a valid license to practice as a certified public accountant in another state deemed by the board to have substantially equivalent licensing standards. The board shall determine the procedure for reviewing and determining the substantial equivalency of any state.**
- (4) The applicant shall apply in accordance with administrative regulations promulgated by the board and meet the following requirements:**
 - (a) Submit an application and pay a fee not to exceed two hundred dollars (\$200);**
 - (b) Agree to submit to the personal and subject matter jurisdiction and disciplinary authority of the board;**
 - (c) Comply with the laws of this chapter and the board's administrative regulations;**
 - (d) Agree to the appointment of the board that issued the license as the agent upon whom process may be served in any action or proceeding by the board against the applicant;**
 - (e) Agree to immediately cease offering services if any of the information filed is false;**
 - (f) Agree to renew the license by affirming continuing licensure in the home jurisdiction; and**
 - (g) Recognize that if the applicant moves his or her principal place of business to Kentucky he or she shall notify the board and revise the license application to reflect this information.**

Section 6. KRS 325.290 is amended to read as follows:

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- (1) Only an individual who has received a license~~[certificate and a current permit]~~ to practice shall be styled and known as a "certified public accountant". A certified public accountant may also use the abbreviation "CPA" or "public accountant."
- (2) Licensees~~[The achievement of the requirements necessary to be awarded a certificate shall not allow the use of the titles "certified public accountant" or "CPA," unless a permit to practice has been issued and is current. Permit holders]~~ granted a waiver from continuing professional education based on retirement may use "certified public accountant," "public accountant," or "CPA," but shall not engage in regulated activities~~[practice public accounting]~~.

Section 7. KRS 325.301 is amended to read as follows:

- (1) All firms seeking to obtain a license to practice~~[engaged in the practice of public accountancy]~~ in this Commonwealth shall meet the following requirements:
 - (a) Licensees shall hold fifty-one percent (51%) or more of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers of the firm~~[The sole purpose and business of the firm shall be to practice public accountancy]~~;
 - (b) Nonlicensed owners of the firm shall be natural persons actively engaged in the firm's operations and shall satisfy additional requirements as promulgated by the board in administrative regulations;
 - (c) The name of the firm shall comply with the requirements of Section 13 of this Act~~[include the name of at least one (1) current or former certified public accountant who holds or has held an ownership interest in the firm, subject to the conditions set out in KRS 325.380(9) and (10). The firm may use the words "certified public accountants" or the abbreviation "CPA's" in connection with its name]~~;
 - ~~(d)(c)~~ All certified public accountants who are partners, shareholders, members, officers,~~[or]~~ directors, or employees of the firm,~~[and all certified public accountant employees of the firm,]~~ who regularly practice in this Commonwealth, shall maintain~~[be certified public accountants with]~~ current licenses~~[permits]~~ to practice issued by the board;
 - ~~(e)(d)~~ Any individual licensee who is responsible for supervising attest services and signs or authorizes someone to sign the report on the financial statements on behalf of the firm shall meet the competency requirements as promulgated by the board in administrative regulation~~[At least one (1) partner, shareholder, or other person holding an ownership interest in the firm shall be a certified public accountant with a current permit to practice issued by the board]; and~~
 - ~~(f)(e)~~ The firm shall comply with the provisions of this chapter, the administrative regulations promulgated by the board, and all other laws of this Commonwealth applicable to the firm's particular form of business organization.
- (2) Before a firm may practice in this Commonwealth, it shall:
 - (a) Submit an initial application to the board for a firm license~~[permit]~~ to practice in this Commonwealth. This application shall be made upon forms approved by the board and signed by the firm manager, who shall also be the certified public accountant in charge of the administrative matters of the firm. The application for a firm license~~[permit]~~ to practice shall include the name of the firm manager, the name of each certified public accountant and nonlicensee with an ownership interest in the firm, the name of each certified public accountant employee of the firm, the location of each office, and any other information as the board, by duly promulgated administrative regulation, may require; and
 - (b) With the exception of a sole proprietorship, pay a fee not to exceed two hundred dollars (\$200) set by an administrative regulation promulgated by the board.
- (3) The firm license~~[permit]~~ to practice shall be renewed every two (2) years by the firm. The application for renewal shall be submitted by the manager of the firm on forms established in administrative regulations promulgated by the board. The renewal fee, not to exceed two hundred dollars (\$200), shall be established by administrative regulation promulgated by the board.
- (4) The firm license~~[permit]~~ to practice shall be effective for a two (2) year period following the date of its issuance and shall expire on the first day of July in the year of expiration.
- (5) The manager of the firm shall notify the board, on a form established in administrative regulations promulgated by the board, of any change in its licensing~~[registration]~~ information within thirty (30) days. Any change in the name of a firm shall require the filing of an initial application.
- (6) All firms that perform audits, reviews, or compilations shall ~~[undergo a quality enhancement review as determined by administrative regulations promulgated by the board]~~.
- ~~(7)~~ ~~Firms that perform audits shall~~ complete an approved peer~~[quality]~~ review program with standards that are equivalent to or better than the peer~~[quality]~~ review program administered by the American Institute of Certified Public Accountants as determined by administrative regulations promulgated by the board.
- ~~(7)(8)~~ Nothing contained in this chapter shall require a certified public accountant or firm of certified public accountants licensed by another state or foreign country to obtain a license~~[permit]~~ to practice in this Commonwealth if the certified public accountant or firm of certified public accountants enter this Commonwealth solely to:

- (a) Conduct a ~~peer~~[quality] review of a firm; or
- (b) Perform attestation work, incidental to an engagement which was initiated with a client located outside of the Commonwealth and has extended into the Commonwealth due to common ownership or existence of a subsidiary, assets, or other operations located within the Commonwealth.

Section 8. KRS 325.330 is amended to read as follows:

- (1) An applicant for initial issuance of a ~~license~~[permit] to practice shall ~~show~~:
 - (a) Satisfy all the requirements of Section 4 of this Act and the administrative regulations promulgated by the board~~[That he has obtained a certificate as specified in this chapter];~~
 - (b) Pay~~[That he has paid]~~ a fee not to exceed two hundred dollars (\$200); and
 - (c) Submit a completed~~[That he has completed an]~~ application on a form issued by the board.
- (2) ~~Licenses~~[Permits] shall be initially issued and renewed for a period of two (2) years, and shall expire on the first day of July in the year of expiration.
- (3) When an initial license to practice is granted, the board shall issue a nonrenewable document that indicates that the licensee has satisfied all requirements to receive an initial license as a certified public accountant~~[In July, 1991, one-half (1/2) of the permit holders on that date shall be issued permits with a one (1) year expiration date, while the remaining permit holders shall be issued permits with a two (2) year expiration date].~~
- (4) An applicant for renewal of a ~~license~~[permit] to practice, in good standing, shall complete a ~~license~~[permit] renewal form provided by the board showing the applicant has:
 - (a) Fulfilled the requirement of continuing professional education for professional enhancement as defined by the board by administrative regulation, but not to exceed eighty (80) hours during a two (2) year calendar period ending December 31 preceding the July 1 renewal date. Certified public accountants not employed by a firm licensed by the board~~[engaged in public accounting]~~ shall be required to achieve continuing professional education not to exceed sixty (60) hours during the two (2) year calendar period ending December 31 preceding the July 1 renewal date. The board shall provide for lesser, prorated requirements for applicants whose initial permit was issued substantially less than two (2) years prior to the renewal date;
 - (b) Paid a fee not to exceed two hundred dollars (\$200) biennially;
 - (c) Listed a permanent mailing address; and
 - (d) Designated on the ~~license~~[permit] renewal application whether he is employed by a firm licensed by the board~~[engaged in any manner of public accounting]~~.
- (5) Any ~~license~~[permit] not renewed by the expiration date shall automatically expire and the holder of the expired ~~license~~[permit] shall be prohibited from practicing public accounting or holding himself out as a certified public accountant.
- (6) The holder of a license that from the date of renewal has been expired for a period shorter than six (6) months, and an expired permit, who has not violated any other provision of this chapter, may renew the ~~license~~[permit] by meeting all of the requirements of this section and paying a late penalty fee not to exceed one hundred dollars (\$100).
 - (a) If the ~~license~~[permit] has expired for a period longer than six (6)~~[twelve (12)]~~ months, the applicant shall apply to the board for reinstatement. The board shall determine the eligibility for ~~license~~[permit] reissuance, including a late penalty fee not to exceed two hundred dollars (\$200) and additional continuing professional education hours.
 - (b) Failure to receive a renewal notice shall not constitute an adequate reason for failing to renew the ~~license~~[permit] to practice in a timely manner.
- (7) The board may reduce or waive the ~~license~~[permit] to practice renewal requirements upon written request of the ~~licensee~~[permit holder] showing illness, extreme hardship, or age and complete retirement from practice as prescribed by the board by administrative regulation.

Section 9. KRS 325.340 is amended to read as follows:

- (1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke~~[or suspend any certificate of a certified public accountant issued under this chapter or any registration of a public accountant granted under this chapter, or may revoke]~~, suspend, impose a fine not to exceed one thousand dollars (\$1,000)~~[or]~~ refuse to issue or renew any ~~license~~[permit issued under this chapter, or may] censure, or~~[the holder of the permit,]~~ place~~[any licensee]~~ on probation any licensee, all with or without terms, for any one (1) or any combination of the following causes:
 - (a) Fraud or deceit in obtaining~~[a certificate as certified public accountant, or in obtaining registration under this chapter, or in obtaining]~~ a license issued~~[permit to practice public accounting]~~ under this chapter;
 - (b) Dishonesty, fraud, or negligence while performing any regulated activity~~[in the practice of public accounting]~~, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including, but not limited to, the following:

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1. Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information; and
 2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses;
- (c) Violation of any of the provisions of this chapter or administrative regulations promulgated by the board under this chapter or violation of any order of the board;
- (d) Violation of a rule of professional conduct promulgated by the board;
- (e) Conviction of any felony, or of any crime in which dishonesty or fraud is an element, under the laws of any state or of the United States. Conviction includes but is not limited to pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime, ~~or the conviction of a felony or any crime an element of which is dishonesty or fraud, under the laws of any state or of the United States~~;
- (f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;
- (g) Suspension or revocation of the right to practice before any state or federal agency;
- (h) Conduct discreditable to the accounting profession; or
- (i) Failure to respond to a board inquiry regarding any licensing or complaint matter.
- (2) ~~The board may issue an order to a certificate holder to show cause why his certificate shall not be revoked for failure to renew his permit to practice. The order shall be sent to the certificate holder by certified mail, return receipt requested, to the mailing address given to the board by the certificate holder. If he fails to request a hearing on the order within twenty (20) days from the date of the order being mailed, the board may without a hearing, revoke the certificate. If a hearing is timely requested, it shall be conducted pursuant to KRS Chapter 13B.~~
- (3) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent licensee to pay the costs of the proceeding.

Section 10. KRS 325.350 is amended to read as follows:

- (1) After notice and hearing as provided in KRS Chapter 13B, the board shall revoke the license~~registration and permit~~ to practice of a firm if at any time it does not have all the qualifications prescribed by this chapter under which it qualified for licensing~~registration~~.
- (2) After notice and hearing as provided in KRS Chapter 13B, the board may~~revoke or suspend the registration or may~~ revoke, suspend, or refuse to renew the license~~permit~~ to practice of a firm or may censure the licensee~~holder of any permit~~ for any of the causes enumerated in KRS 325.340, and for the following additional causes:
 - (a) The revocation,~~or suspension of the certificate or registration or the revocation or~~ suspension, or refusal to renew the license~~permit~~ to practice of any partner or shareholder, or any other person with an ownership interest; or
 - (b) The cancellation, revocation, suspension, or refusal to renew the authority of the firm or any partner or shareholder, or any other person with an ownership interest thereof to practice public accounting in any other state.

Section 11. KRS 325.360 is amended to read as follows:

- (1) The board may conduct investigations of suspected violations of this chapter or the administrative regulations promulgated by the board to determine whether there is probable cause to institute proceedings against any person or firm for any violation under this chapter; but an investigation under this section shall not be a prerequisite to proceedings. In aid of these investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence. Subpoenas may be served in person or by certified mail, return receipt requested.
- (2) The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall report to the board. The board shall then find probable cause or lack of probable cause, or it shall request that the investigating officer investigate further. Until there has been a determination of probable cause, the findings of the investigating officer, the testimony and documents gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.
- (3) Upon a finding of probable cause, if the subject of the investigation is a licensee, the board shall direct that a complaint be issued pursuant to this section; and if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to this chapter. Upon a finding of a lack of probable cause, the board shall close the matter.
- (4) In any case where probable cause has been determined pursuant to this section with respect to a violation by a licensee, or where the board has received a written complaint by any person furnishing grounds for a determination of probable cause about a violation or where the board has received notice of a decision by the board of accountancy of another state

furnishing grounds, the board shall issue a complaint setting forth appropriate charges and set a date for a hearing which shall be conducted in accordance with KRS Chapter 13B.

- (5) A licensee, after having been served with the notice of hearing and complaint as provided for in subsection (4) of this section, shall file a written response within twenty (20) days from the date he was served. If the respondent licensee fails to file a timely response or fails to appear at the hearing, the board may hear evidence against him and may enter a final order as shall be justified by the evidence.
- (6) In a hearing under this section, the respondent licensee may appear in person or, in the case of a firm, through a partner, or shareholder or other person with an ownership interest.
- (7) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.
- (8) In a hearing under this section before the board or in acting upon the recommended order of a hearing officer, a vote of a majority of all members of the board then in office, other than a member disqualified by reason of subsection (7) of this section, shall be required to sustain any charge and to impose any penalty with respect thereto.
- (9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (10) On rendering a final order to revoke, suspend, refuse to renew, or censure the holder of a ~~license~~[~~certificate or a permit~~] to practice issued under this chapter, the board shall examine its records to determine whether the respondent is authorized or licensed to practice as a certified public accountant[~~holds a certificate, a registration, or a permit to practice~~] in any other state. If the board determines that the respondent is authorized or licensed to practice[~~holds a certificate, a registration, or a permit to practice~~] in any other state, the board shall notify the board of accountancy of the other state of its action by mail within thirty (30) days of rendering the final order.
- (11) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in the information.

Section 12. KRS 325.370 is amended to read as follows:

- (1) In any case where the board has suspended, ~~or~~ revoked, ~~a certificate or a permit or~~ refused to renew a license[~~permit~~], the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension or reissue the license[~~certificate and permit~~].
- (2) The board shall by administrative regulation, specify the manner in which:
 - (a) Applications shall be made;
 - (b) The times within which the applications shall be made, and the circumstances in which hearings, to be conducted in accordance with KRS Chapter 13B, shall be held thereon; and
 - (c) Any corrective or remedial education, training, or review requirement for reinstatement.

Section 13. KRS 325.380 is amended to read as follows:

- (1) No person shall assume or use the title or designation "certified public accountant," "public accountant," or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless the person ~~has received a certificate as a certified public accountant under this chapter and~~ holds a license[~~permit~~] issued under this chapter ~~which has not been revoked or suspended, and all offices of the person in this Commonwealth for the practice of public accounting are maintained and registered as required under this chapter~~.
- (2) No firm shall assume or use the title or designation "certified public accountants," "public accountants," or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants, unless the firm ~~is registered as a firm of certified public accountants under this chapter,~~ holds a license[~~permit~~] issued under this chapter which has not been revoked or suspended, and all offices of the firm in this state ~~for the practice of public accounting~~ are maintained ~~and registered~~ as required under this chapter.
- ~~(3) No individual shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a public accountant, unless the individual is registered as a public accountant under this chapter and holds a permit issued under this chapter which has not been revoked or suspended, and all offices of the individual in this state for the practice of public accounting are maintained and registered as required under this chapter, or unless the individual has received a certificate as a certified public accountant under this chapter and holds a permit issued under this chapter which has not been revoked or suspended, and all offices of the individual in this state for the practice of public accounting are maintained and registered as required under this chapter.~~
- ~~(4) No firm shall assume or use the title or designation "public accountants" or any other title, designation, words, letters,~~

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~~abbreviation, sign, card, or device tending to indicate that the firm is composed of public accountants, unless the firm is registered as a firm of public accountants under this chapter or as a firm of certified public accountants under this chapter and holds a permit issued under this chapter which has not been revoked or suspended, and all offices of the firm in this state for the practice of public accounting are maintained and registered as required under this chapter.~~

~~(5)}~~ No individuals or firm shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited auditor," "accounting practitioner," "accredited accountant," "expert accountant," "expert auditor," "certified auditor," or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," "AP," "PA," "RA," "LA," or "AA" or similar abbreviations likely to be confused with "CPA."

~~(4){(6)}~~ No person or firm shall sign or affix his name or a firm name to any document or prepare or issue any document which indicates that the person or firm performed the attest function in the preparation of the documents or that includes any language which indicates that he or the firm has expert knowledge in the use of the attest function, unless the person or firm holds a ~~license[permit]~~ to practice ~~issued~~ under this chapter. This prohibition shall be applicable to issuance by ~~any unlicensed[a]~~ person or firm ~~[not holding a valid permit]~~ of a report using any form of language conventionally used by licensees with respect to a compilation of financial statements. **The board shall issue safe harbor language, to be defined by the promulgation of administrative regulations, that nonlicensees may use in connection with a compilation of financial information.** The provisions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he holds in the organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties.

~~(5){(7)}~~ No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a firm, or in conjunction with the designation "and Company" or "and Associates" or a similar designation if there is in fact no bona fide firm ~~licensed[registered]~~ under this chapter.

~~(6){(8)}~~ No firm performing functions permitted by this chapter shall use designations "and Company" or "and Associates" or a similar designation, if there is in fact only one (1) licensee with an ownership interest.

~~(7){(9)}~~ No person or firm holding a ~~license[permit]~~ under this chapter shall ~~use[engage in the practice of public accountancy using]~~ a professional or firm name or designation which **contains the names of any nonlicensees,** is misleading as to the legal form of the firm, or as to the persons who are partners, officers, shareholders, or any other owners of the firm, or as to any other matters. If more than one (1) certified public accountant has an ownership interest in the firm, the names of one (1) or more deceased, retired, or withdrawn partners, shareholders, or other certified public accountants with an ownership interest may be included in the name of a firm or its successor.

~~(8){(10)}~~ If the death or retirement of a certified public accountant results in a firm having only one (1) certified public accountant with an ownership interest, the board may permit the firm to continue to use the firm name for no more than two (2) years from the certified public accountant's respective death or retirement.

Section 14. KRS 325.410 is amended to read as follows:

The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" shall be prima facie evidence in any action brought under KRS 325.400 or 325.990 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device, and that such person is holding himself or itself out to be a certified public accountant ~~licensed[or a public accountant holding a permit]~~ to practice under KRS 325.330. In any such action evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

SECTION 15. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

Persons registered with the board as "public accountants" by July 1, 1946, shall receive the designation of "Public Accountant Emeritus" and shall be exempt from the payment of licensing fees and the reporting of continuing education hours. No persons shall assume or use the title or designation "Public Accountant Emeritus" unless designated by the board under this section.

Section 16. The following KRS sections are repealed:

325.310 Registration of public accountants -- Use of title "public accountant."

325.320 Partnership or corporation of public accountants -- Registration.

HB 463, AN ACT relating to alcoholic beverage licenses at automobile race tracks and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.050 is amended to read as follows:

- (1) The department may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.
- (2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly-scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.
- (3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly-scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.
- (4) The department may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license is required, where applicable. An applicant for the license shall meet the qualifications of KRS 243.055, and an extended supplement license under subsection (5) of this section may be issued. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class, if the original license was issued prior to July 15, 1998.
- (5) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230,~~[-and]~~ at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually, and at automobile race tracks having a seating capacity of at least thirty thousand (30,000) people. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, automobile race track, meeting the requirements of this subsection, or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry,~~[-and]~~ passengers at large commercial airports, and the automobile racing industry.

Section 2. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

- | | | |
|-----|---|------------|
| (1) | Distiller's license, per annum | \$2,500.00 |
| (2) | Rectifier's license, per annum | \$2,500.00 |
| (3) | Blender's license, per annum | \$2,500.00 |
| (4) | Vintner's license, per annum | \$1,000.00 |
| (5) | Small winery license, per annum | \$100.00 |
| | (a) Small winery off-premises retail license, per annum | \$25.00 |
| (6) | Wholesaler's license, per annum | \$2,000.00 |
| (7) | Retail package license, per annum: | |
| | (a) In counties containing cities of the first class | \$800.00 |
| | (b) In counties containing cities of the second class | \$700.00 |
| | (c) In counties containing cities of the third class | \$600.00 |
| | (d) In counties containing cities of the fourth class | \$500.00 |
| | (e) In all other counties | \$400.00 |

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- (8) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:
- (a) In counties containing cities of the first class \$1,000.00
 - (b) In counties containing cities of the second class \$700.00
 - (c) In counties containing cities of the third class \$600.00
 - (d) In counties containing cities of the fourth class \$500.00
- (9) Transporter's license, per annum \$100.00
- (10) Dining car license, per annum \$100.00
- (11) Special nonbeverage alcohol vendor's license, per annum \$50.00
- (12) Special industrial alcohol license, per annum \$50.00
- (13) Special nonindustrial alcohol license, per annum \$50.00
- (14) Special agent's or solicitor's license, per annum \$25.00
- (15) Special storage or warehouse license and bottling house storage license,
per annum \$500.00
- (16) Special temporary liquor license, per event \$100.00
- (17) Special private club license, per annum \$300.00
- (18) Special Sunday retail drink license, per annum \$500.00
- (19) Nonresident, special agent or solicitor's license, per annum \$100.00
- (20) Transport permit, nonresident license, per annum \$100.00
- (21) Through transporter's license, per annum \$100.00
- (22) Freight forwarder's license, per annum \$100.00
- (23) Restaurant wine license, per annum \$500.00
- (24) Farm winery license, per annum \$100.00
- (a) Farm winery, off-premises retail outlet license, per annum \$25.00
- (25) Special temporary wine license, per event \$50.00
- (26) Caterer's license, per annum \$800.00
- (27) Souvenir retail liquor license, per annum \$500.00
- (28) Special temporary distilled spirits and wine
auction license, per event \$100.00
- (29) Airport drink license, per annum \$1,000.00
- (30) Convention center or convention hotel complex
license, per annum \$5,000.00
- (31) Extended hours, supplemental license, per annum \$2,000.00
- (32) Horse race track license, per annum \$2,000.00
- (33) ***Automobile race track license, per annum \$2,000.00***
- ~~(34)~~ Air or rail system license, per annum \$2,000.00
- ~~(35)~~~~(34)~~ Riverboat license, per annum \$1,000.00
- ~~(36)~~~~(35)~~ Bottling house license, per annum \$1,000.00
- ~~(37)~~~~(36)~~ Hotel in-room license, per annum \$200.00
- ~~(38)~~~~(37)~~ Bonded warehouse license, per annum \$1,000.00
- ~~(39)~~~~(38)~~ Air transporter liquor license, per annum \$500.00
- ~~(40)~~~~(39)~~ Replacement or duplicate license \$25.00
- ~~(41)~~~~(40)~~ Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and ~~(40)~~~~(39)~~. The application fee shall be applied to the licensing fee if the application is issued and shall be retained by the department if the license is denied.

Section 3. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. The licenses may only be issued by the city administrator, and the fee shall not exceed the following:

- (1) Distilled spirit licenses as set forth in KRS 243.030:
 - (a) Distiller's license, per annum \$500.00
 - (b) Rectifier's license, per annum \$3,000.00
 - (c) Blender's license, per annum \$3,000.00
 - (d) Wholesaler's distilled spirits and wine license, per annum \$3,000.00
 - (e) Distilled spirits and wine retail package license, per annum:
 1. In counties containing cities of the first class \$1,200.00
 2. In counties containing cities of the second class \$1,000.00
 3. In counties containing cities of the third class \$800.00
 4. In counties containing cities of the fourth class \$600.00
 5. In all other counties \$400.00
- (2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
 - (a) In counties containing cities of the first class \$1,600.00
 - (b) In counties containing cities of the second class \$1,000.00
 - (c) In counties containing cities of the third class \$800.00
 - (d) In counties containing cities of the fourth class \$600.00
- (3) Distilled spirits and wine special temporary liquor license, per event:
 - (a) In counties containing cities of the first class \$266.66
 - (b) In counties containing cities of the second class \$166.66
 - (c) In counties containing cities of the third class \$133.33
 - (d) In counties containing cities of the fourth class \$100.00
- (4) Special temporary wine license, per event \$50.00
- (5) Distilled spirits and wine special temporary auction
license, per event \$200.00
- (6) Special private club license, per annum \$300.00
- (7) Distilled spirits and wine special Sunday retail drink
license, per annum \$300.00
- (8) Extended hours supplemental license, per annum \$2,000.00
- (9) Nonresident special agent or solicitor's license, per annum \$40.00
- (10) Restaurant wine license, per annum:
 - (a) New applicants \$600.00
 - (b) Applicants for renewal \$400.00
- (11) Caterer's license, per annum \$800.00
- (12) Riverboat license, per annum \$1,200.00
- (13) Horse race track license, per annum \$2,000.00
- (14) Convention center or convention hotel complex
license, per annum \$2,000.00
- (15) ***Automobile race track license, per annum \$2,000.00***
- ~~(16)~~ Bottling house distilled spirits license or wine
storage license, per annum \$1,000.00
- ~~(17)~~~~(16)~~ Souvenir retail liquor license, per annum \$1,000.00
- ~~(18)~~~~(17)~~ Malt beverage licenses as follows:
 - (a) Brewer's license, per annum \$500.00
 - (b) Microbrewery license, per annum \$500.00

- (c) Malt beverage distributor's license, per annum \$400.00
- (d) Retail malt beverage license, per annum \$200.00
- (e) Special temporary retail malt beverage license, per event \$25.00
- (f) Malt beverage brew-on-premises license, per annum \$100.00

Section 4. Whereas the availability of alcoholic beverage sales by the drink at an automobile race track will spur economic growth and development and promote tourism in the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 466, AN ACT relating to sports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 229.051 is amended to read as follows:

Before a permit is granted to any person to hold, promote, or act as a booker for a professional boxing or a wrestling match or exhibition, the applicant shall file with the commission a bond in the sum of five thousand dollars (\$5,000), to be approved as to form and the sufficiency of the sureties by the commission, conditioned for the payment of the tax imposed by KRS 229.031. Upon the approval of the bond, the commission shall issue to the applicant a certificate of filing and approval, which shall be filed by the applicant with the commission, with the application for the permit. ~~The~~No such permit shall not be issued until ~~the~~such certificate has been filed.

Section 2. KRS 229.081 is amended to read as follows:

~~A~~No person shall not participate in a professional match in any of the following enumerated capacities or in any other capacity as set out in administrative regulations promulgated by the commission without holding a license issued by the commission and meeting all eligibility requirements as established by the commission by promulgation of administrative regulations:

- (1) Contestant;
- (2) Judge;
- (3) Manager;
- (4) Physician;
- (5) Referee;
- (6) Timekeeper; or
- (7) Trainer.

Licenses issued under this section shall expire on December 31 of the year in which they are issued. The commission may establish a schedule of compensation to be paid to officials for participating in a professional match by promulgation of administrative regulations. The compensation shall be paid by the person conducting the match, and by no other person.

Section 3. KRS 229.101 is amended to read as follows:

~~A~~No boxing or wrestling match or exhibition shall not consist~~be~~ of more than twelve (12) rounds~~in length except championship matches, which shall be limited in the discretion of the commission~~.

Section 4. KRS 229.111 is amended to read as follows:

Contestants in a professional boxing or wrestling match or exhibition shall be examined by a reputable licensed physician appointed by the commission, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the commission~~be in excellent health~~ before participating in such a boxing or wrestling match or exhibition.

Section 5. KRS 229.240 is amended to read as follows:

All peace officers, ~~who are~~on being informed or ~~who have~~having reason to believe that a professional match that is in violation of~~not authorized under~~ this chapter or administrative regulations promulgated in accordance with this chapter is about to take place, or that there is training or preparation for such a contest, in any place within their jurisdiction, shall suppress and prevent it. For this purpose any peace officer may enter any place where such contest is being~~held~~ or will be held or where there is training or preparation for such a contest and may arrest without a warrant any person who does not submit satisfactory proof that he or she has ~~the~~whatever license or permit~~is~~ required by this chapter.

Section 6. KRS 229.991 is amended to read as follows:

- (1) Any person who violates subsection (1) of KRS 229.071 or subsection (1) of KRS 229.021 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail for not more than six (6) months, or both.
- (2) Any person who violates subsections (2), (3) or (4) of KRS 229.021 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not more than ninety (90) days, or both.

- (3) Any person who violates KRS 229.081 where ~~the~~~~[such]~~ violation does not constitute a violation of KRS 229.021, shall be fined not less than one hundred dollars (\$100)~~twenty five (\$25)~~ nor more than five hundred dollars (\$500).
- (4) Any peace officer who willfully fails to execute the duties required of him by KRS 229.240 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (5) Any person who violates any of the provisions of this chapter for which no specific penalty is provided shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (6) Any person who fails to pay the taxes required by KRS 229.031 or ascertained to be due under KRS 229.041 together with the expenses incurred in the examination, within twenty (20) days after notice to the delinquent person of the amount fixed by the commission shall ipso facto forfeit his license. In addition he shall forfeit and pay into the State Treasury an additional amount equal to the taxes found to be due.
- (7) Any person who violates the provisions of KRS 229.121 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and no person who has been guilty of such an offense shall be allowed to participate in any boxing or wrestling match or exhibition for one (1) year after being found guilty of the offense.
- (8) Any person failing to make the report required by subsections (2) or (4) of KRS 229.031 shall be liable for any tax the Commonwealth may lose as a result of his failure to make the required report.

HB 472, AN ACT relating to distilled spirits and wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

- | | | |
|------|--|------------|
| (1) | Distiller's license, per annum | \$2,500.00 |
| (2) | Rectifier's license, per annum | \$2,500.00 |
| (3) | Blender's license, per annum | \$2,500.00 |
| (4) | Vintner's license, per annum | \$1,000.00 |
| (5) | Small winery license, per annum | \$100.00 |
| | (a) Small winery off-premises retail license, per annum | \$25.00 |
| (6) | Wholesaler's license, per annum | \$2,000.00 |
| (7) | Retail package license, per annum: | |
| | (a) In counties containing cities of the first class | \$800.00 |
| | (b) In counties containing cities of the second class | \$700.00 |
| | (c) In counties containing cities of the third class | \$600.00 |
| | (d) In counties containing cities of the fourth class | \$500.00 |
| | (e) In all other counties | \$400.00 |
| (8) | Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum: | |
| | (a) In counties containing cities of the first class | \$1,000.00 |
| | (b) In counties containing cities of the second class | \$700.00 |
| | (c) In counties containing cities of the third class | \$600.00 |
| | (d) In counties containing cities of the fourth class | \$500.00 |
| (9) | Transporter's license, per annum | \$100.00 |
| (10) | Dining car license, per annum | \$100.00 |
| (11) | Special nonbeverage alcohol vendor's license, per annum | \$50.00 |
| (12) | Special industrial alcohol license, per annum | \$50.00 |
| (13) | Special nonindustrial alcohol license, per annum | \$50.00 |
| (14) | Special agent's or solicitor's license, per annum | \$25.00 |
| (15) | Special storage or warehouse license and bottling house storage license,
per annum \$500.00 | |
| (16) | Special temporary liquor license, per event | \$100.00 |
| (17) | Special private club license, per annum | \$300.00 |
| (18) | Special Sunday retail drink license, per annum | \$500.00 |

(19)	Nonresident, special agent or solicitor's license, per annum	\$100.00
(20)	Transport permit, nonresident license, per annum	\$100.00
(21)	Through transporter's license, per annum	\$100.00
(22)	Freight forwarder's license, per annum	\$100.00
(23)	Restaurant wine license, per annum	\$500.00
(24)	Farm winery license, per annum	\$100.00
(a)	Farm winery, off-premises retail outlet license, per annum	\$25.00
(25)	Special temporary wine license, per event	\$50.00
(26)	Caterer's license, per annum	\$800.00
(27)	Souvenir retail liquor license, per annum	\$500.00
(28)	Special temporary distilled spirits and wine auction license, per event	\$100.00
(29)	Airport drink license, per annum	\$1,000.00
(30)	Convention center or convention hotel complex license, per annum	\$5,000.00
(31)	Extended hours, supplemental license, per annum	\$2,000.00
(32)	Horse race track license, per annum	\$2,000.00
(33)	Air or rail system license, per annum	\$2,000.00
(34)	Riverboat license, per annum	\$1,000.00
(35)	Bottling house license, per annum	\$1,000.00
(36)	Hotel in-room license, per annum	\$200.00
(37)	Bonded warehouse license, per annum	\$1,000.00
(38)	Air transporter liquor license, per annum	\$500.00
(39)	<u>Sampling license, per annum.....</u>	<u>\$100.00</u>
(40)	Replacement or duplicate license	\$25.00

~~(41)~~~~(40)~~ Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and ~~(40)~~~~(39)~~. The application fee shall be applied to the licensing fee if the application is issued and shall be retained by the department if the license is denied.

Section 2. KRS 244.050 is amended to read as follows:

- (1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.156, ~~and~~ 243.157, and subsection (2) of this section.
- (2) A retailer licensed to sell distilled spirits and wine under subsections (7) or (27) of Section 1 of this Act may allow customers to sample distilled spirits and wine under the following conditions:
 - (a) Sampling shall be permitted only on licensed premises and during regular business hours;
 - (b) A licensee shall not charge for the samples provided to customers;
 - (c) Sample sizes shall not exceed:
 1. One (1) ounce for wine; and
 2. One-half (1/2) ounce for distilled spirits; and
 - (d) A licensee shall limit a customer to:
 1. Two (2) distilled spirits samples per day; and
 2. Six (6) wine samples per day.

Calendar

HB 339, HB 374, SB 24, SB 25, SB 26, HCR 28, HJR 42, HCR 53, HB 208, HB 262, HB 364, HB 427, HB 449, and HCR 44 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 15, HB 50, HB 73, HB 227, HB 328, HB 377, HB 381, HB 423, HB 208, HB 374, HCR 28, and HCR 53** have been posted for passage in the Orders of the Day for February 3, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 47, HB 410, and HB 364**

Orders of the Day

Representative Stumbo moved that **HB 10** be taken from the Clerk's Desk and placed in the Orders of the Day for February 3, 2000. Agreed.

HB 70, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Floor Amendment No. 5 to **HB 70**. Agreed.

Representative Kerr moved that **HB 70**, as amended, be passed.

On the roll call the vote was: **Yeas 82, Nays 17**. (See February 2, 2000 roll call on **HB 70** - Appendix.)

HB 70, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 70**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 204, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 204**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 204**. Agreed.

Representative Burch moved that **HB 204**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 8**. (See February 2, 2000 roll call on **HB 204** - Appendix.)

HB 204, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 204**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 218, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 218**. Agreed.

Representative Stacy moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 218**. Agreed.

Representative Stacy moved that **HB 218**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 2, 2000 roll call on **HB 218** - Appendix.)

HB 218, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 218**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 95** and **HB 43** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:23 p.m.)

Orders of the Day (Continued)

HB 310 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved that **HB 310** be passed.

On the roll call the vote was: **Yeas 92, Nays 3.** (See February 2, 2000 roll call on **HB 310** - Appendix.)

HB 310 was passed and the title agreed to.

Representative Jordan moved that the vote by which **HB 310** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 301 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 301** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 2, 2000 roll call on **HB 301** - Appendix.)

HB 301 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 301** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 302, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved the adoption of Committee Amendment No. 1 to **HB 302**. Agreed.

Representative Simpson moved that **HB 302**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 2, 2000 roll call on **HB 302** - Appendix.)

HB 302, as amended, was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 302**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 335 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 335** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 2, 2000 roll call on **HB 335** - Appendix.)

HB 335 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 335** was passed be reconsidered and said motion be placed on

the table. Agreed.

HB 355, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of Floor Amendment No. 1 to **HB 355**. Agreed.

Representative Miller moved the adoption of Floor Amendment No. 2 to **HB 355**. Agreed.

Representative Miller moved that **HB 355**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 2, 2000 roll call on **HB 355** - Appendix.)

HB 355, as amended, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 355**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 331, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved that **HB 331** be passed.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HB 331**.

Representative Jordan inquired if a fiscal note was required on Floor Amendment No. 1 to **HB 331**.

The Chair ruled that a fiscal note was required but the Body could vote to overrule that requirement or the Bill could be laid on the Clerk's Desk until a fiscal note was attached.

Representative Jordan moved the withdrawal of the inquiry. Agreed.

On the roll call the vote was: **Yeas 63, Nays 31**. (See February 2, 2000 roll call on Floor Amendment No. 1 to **HB 331**-Appendix)

Floor Amendment No. 1 to **HB 331** was adopted.

Representative Jordan moved that **HB 331**, as amended, be passed.

On the roll call the vote was: **Yeas 82, Nays 14**. (See February 2, 2000 roll call on **HB 331** - Appendix.)

HB 331, as amended, was passed and the title agreed to.

Representative Jordan moved that the vote by which **HB 331**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 124, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 124**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 124**. Agreed.

Representative Hoover moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 124**. Agreed.

Representative Yonts moved that **HB 124**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 2, 2000 roll call on **HB 124** - Appendix.)

HB 124, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 124**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **SB 34** and **HB 384**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 552, by Representative Graham: AN ACT relating to retirement.

HB 553, by Representative Wilkey: AN ACT relating to income tax.

HB 554, by Representative D. Butler: AN ACT relating to the taxation of racing associations.

HB 555, by Representative Burch: AN ACT relating to fire districts.

HB 556, by Representative Barrows: AN ACT relating to property taxes.

HB 557, by Representatives Jenkins, Horlander, Vincent, Coleman, and Wilkey: AN ACT relating to the suspension of an operator's license.

HB 558, by Representatives Wayne, Marzian, and Burch: AN ACT relating to perinatal transmission of human immunodeficiency virus.

HR 80, by Representative Hoffman: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Larry Randall French.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **HB 486, HB 505, HR 75**

Banking and Insurance: **HB 525**

Motions, Petitions, and Communications (Continued)

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 79**:

HR 79, A RESOLUTION commending Catholic schools in Kentucky and celebrating National Catholic Schools Week.

WHEREAS, January 31 to February 4, 2000, is National Catholic Schools Week; and

WHEREAS, the theme of the 2000 observance of National Catholic Schools Week is "Lighting the Way to a New Century;" and

WHEREAS, there are more than 2.6 million students in some 8,200 elementary and secondary schools across the nation who are celebrating National Catholic Schools Week; and

WHEREAS, during National Catholic Schools Week, Catholic elementary and secondary schools evidence the right to freedom of choice guaranteed by the First Amendment of the Constitution of the United States and celebrate the contributions of Catholic education to our society; and

WHEREAS, of the over 2.6 million students attending Catholic elementary and secondary schools in the United States, over 46,000 attend 147 schools in the Commonwealth of Kentucky; and

WHEREAS, Kentucky's Catholic schools are to be commended for providing the students of our Commonwealth with a basic moral and spiritual foundation while maintaining high educational standards, aligned with educational guidelines set by the Kentucky Department of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body declares January 31 to February 4, 2000, to be Catholic Schools Week in Kentucky and thereby recognizes the invaluable service of Catholic Schools to the youth of the Commonwealth of Kentucky.

Section 2. The Clerk of the House is directed to transmit a copy of this Resolution to Kim O'Reel Kentucky Catholic Conference, 1042 Burlington Lane, Frankfort, Kentucky 40601.

There being no objection **HR 79** was adopted.

Representative Webb moved the adoption of the following **Legislative Citation No. 37**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Dr. J. Lowell Lusby the loving son of the late James William and Emma Thelkeld Lusby; beloved husband of the late Lela Stone Lusby; devoted father of Nan Griffith, Sylvia Giese and Martha Jordan, cherished grandfather of eight grandchildren and one great-grandchild; and the esteemed brother of Willia Littrell and Majel Kelley, both of whom preceded him in death. Succeeding his father as President of Kentucky Christian College, a position he held for an unprecedented 40 years and retiring from that post in 1977, he continued serving as Chancellor for another ten years. He attained his BA degree from Christian Normal Institute and Milligan College, his MA degree in History from Miami University (Ohio), and was awarded two honorary degrees, the Doctor of Laws from Milligan College and the Doctor of Letters from Kentucky Christian College. The College flourished under his visionary and passionate leadership and his accomplishments on behalf of that institution were legend. He served as Secretary of the Board and Chairman of the Elders at First Church of Christ in Grayson, was an active member of Rotary International and served on the Continuation Committee of the North American Christian Convention, where he was recognized as one of "God's Honored Servants." Inasmuch as his very life was inscribed by his profound and humble commitment to God and by his tireless service to Kentucky Christian College, the members of this august body solemnly join Representative Robin Webb in paying tribute to the memory of Dr. J. Lowell Lusby and in extending sincere condolences to all those who share in the loss of this most highly-regarded citizen. Done in Frankfort, this second day of February, in the year of our Lord, two thousand.

Legislative Citation No. 37 was adopted without objection.

Representative Marzian moved the adoption of the following **HR 50**:

HR 50, A RESOLUTION adjourning the House of Representatives in honor of Tori Murden.

WHEREAS, Tori Murden, a resident of Louisville, and the first woman to row solo across the Atlantic Ocean, made a lasting impact on the citizens of this great Commonwealth when she embarked on her historic voyage on September 13, 1999, from Tenerife, the largest of the Canary Islands off the coast of Africa, and landed on December 3, 1999, at Pointe-a-Pitre, Guadeloupe, a French island; and

WHEREAS, Tori Murden's trans-Atlantic row was a heroic effort that encompassed 2,962 miles during an 82 day journey that involved extraordinary vision and absolute determination guided by skill and physical and moral courage throughout her voyage; and

WHEREAS, with her 23-foot vessel, the American Pearl, Tori Murden's Herculean challenge steered her path to success while battling strong winds, high waves, and tumultuous weather conditions that would dare the most courageous; and

WHEREAS, Tori Murden has proven to be a real athlete in the truest sense of the word, and a wonderful role model for those who follow her in their dreams and adventures;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud and honored to recognize Tori Murden for her successful trans-Atlantic voyage, and wishes to her continued success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Tori Murden.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Tori Murden, Development Director, Muhammad Ali Center, 1 River Front Plaza-Suite 1702, Louisville, Kentucky 40202.

There being no objection **HR 50** was adopted.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that he be recorded as voting "yea" on **HB 218**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 331**. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., February 3, 2000.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 365**, by Representative Gray:

On page 2, lines 11 and 12, by deleting "full-time";

On page 2, line 15, after "equipment" by inserting "provided that the employee performs routine maintenance solely for a single employer".

Floor Amendment No. 1 to **HB 12**, by Representative Cave:

On page 8, after line 21, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of this chapter to the contrary, no person shall:

- (1) Be required to become or remain a member of any labor organization as a condition of employment or continuation of employment;
- (2) Be required to pay or refrain from paying any dues, fees, or other charges of any kind to any labor organization as a condition of employment or continuation of employment;
- (3) Be required to abstain or refrain from membership in any labor organization as a condition of employment or continuation of employment; or
- (4) Be required to have any connection with, or be recommended or approved, or be cleared through, any labor organization as a condition of employment or continuation of employment."

Floor Amendment No. 2 to **HB 12**, by Representative Cave:

On page 8, after line 21, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of this chapter to the contrary, no person shall:

- (1) Be required to become or remain a member of any labor organization as a condition of employment or continuation of employment;
- (2) Be required to pay or refrain from paying any dues, fees, or other charges of any kind to any labor organization as a condition of employment or continuation of employment;
- (3) Be required to abstain or refrain from membership in any labor organization as a condition of employment or continuation of employment; or
- (4) Be required to have any connection with, or be recommended or approved, or be cleared through, any labor organization as a condition of employment or continuation of employment."

Section 9. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the Labor Cabinet as a labor inspector has taken any part in any strike, lockout or similar labor dispute, he shall forfeit his office.
- (2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:
 - (a) Any person who violates KRS 336.110 shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
 - (b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense.
 - (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.
- (3) Any person who violates the provisions of Section 1 of this Act or who makes any agreement, written or oral, express or implied, to do so, or who engages in any lockout, layoff, strike, work stoppage, slow down, picketing, boycott, or other action or conduct, a purpose of effect of which is to impose upon any person, directly or indirectly, any requirement or compulsion prohibited by Section 8 of this Act shall be assessed a fine not to exceed one thousand dollars (\$1000), or imprisoned in the county jail for a term not to exceed six (6) months, or both."

Floor Amendment No. 1 to Committee Substitute to **HB 427**, by Representative Nunn:

On page 2, line 22, by deleting "executive".

Floor Amendment No. 2 to Committee Substitute to **HB 290**, by Representative Treesh:

On page 2, line 6, by deleting "license an applicant for endorsement" and insert in lieu thereof "certify an applicant for endorsement who";

On page 2, line 7, after "counseling" by inserting "or a related field";

On page 2, line 8, by deleting ";" and inserting in lieu thereof "with graduate coursework in the following:

1. The helping relationship, including counseling theory and practice;
2. Human growth and development;
3. Lifestyle and career development;
4. Group dynamics, process, counseling, and consulting;
5. Assessment, appraisal, and testing of individuals;
6. Social and cultural foundations, including multicultural issues;
7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
8. Research and evaluation; and
9. Professional orientation and ethics;"

On page 2, line 12, by deleting the line in its entirety;

On page 2, line 13, by deleting "(e)" and inserting "(d)" in lieu thereof;

On page 2, line 13, by deleting "(f)" and inserting "(e)" in lieu thereof; and

On page 2, line 13, by deleting "(g)" and inserting "(f)" in lieu thereof;

Floor Amendment No. 3 to **HB 12**, by Representative Cave:

On page 4, line 20, after the ";" remove the second use of the word "or";

On page 4, between lines 20 and 21, by inserting the following:

(c) A requirement to comply with the provisions of KRS 337.010 and KRS 337.505 to 337.550;

On page 4, line 21, to delete "(c)" and insert "(d)" in lieu thereof; and

On page 8, after line 21, by inserting the following:

Section 8. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

- (a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
- (b) "Department" means Department of Workplace Standards in the Labor Cabinet;
- (c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;
- (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
- (e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

- (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 1. Any individual employed in agriculture;
 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670.
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
- (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
- (d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
- (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;
 - (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
 - (c)
 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and
 2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall

be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

- (d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500;
- (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, except for buildings constructed as institutions of learning constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, charter county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more state funds.
- (4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Floor Amendment No. 1 to Committee Substitute to **HB 339**, by Representative Treesh:

On page 1, after line 10, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

No person shall use any state property for the purpose of soliciting or securing funds for:

- (1) Any individual candidate or slate of candidates for nomination or election to public office;
- (2) Any political party; or
- (3) Any committee formed in support of or controlled by a political party."

Floor Amendment No. 2 to Committee Substitute to **HB 339**, by Representative Treesh:

On page 1, after line 10, by adding the following:

"SECTION 2. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO READ AS FOLLOWS:

A member of the General Assembly shall not use any state property for the purpose of soliciting or securing funds for:

- (1) Any individual candidate or slate of candidates for nomination or election to public office;
 - (2) Any political party; or
 - (3) Any committee formed in support of or controlled by a political party.
- Violation of this section is ethical misconduct."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 12:** Representative Sims
- HB 15:** Representative Riner
- HB 123:** Representatives Miller, Simpson, Upchurch
- HB 210:** Representatives Anderson, Ausmus, Bratcher, P. Clark, Colter, Gray, Horlander, Kerr, Nesler, Riggs, Riner, Stewart, J. Turner, T. Turner, Upchurch, Walton, Weaver
- HB 218:** Representative Bruce
- HB 244:** Representative Hoffman
- HB 267:** Representatives Bowling, Bruce, Napier
- HB 322:** Representative L. Belcher

HB 365: Representatives Damron, Nunn
HB 366: Representative Stewart
HB 371: Representative Alexander
HB 378: Representative Branham
HB 446: Representative Allen
HB 452: Representative Crimm
HB 489: Representatives Allen, Bowling, T. Turner
HB 501: Representative Cherry
HB 519: Representatives J. Adams, Bruce, Burch, Graham, Napier, Rader, Worthington
HB 532: Representative Stewart
HB 538: Representatives Bowling, Siler, Vincent
HB 552: Representative Barrows
HB 554: Representative Marzian

Announcements

The following meetings were announced:

Budget Review Subcommittee on Justice, February 7, 2000, 2:00 p.m., Room 125

Tourism, Development, and Energy, upon adjournment, February 2, 2000, Room 131

Budget Review Subcommittee on Economic Development, February 3, 2000, noon, Room 125

Local Government, February 3, 2000, 8:00 a.m.

The following meeting was canceled:

Budget Review Subcommittee on Justice, February 4, 2000

Adjournment

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 3, 2000.

The motion that the House adjourn until 2:00 p.m., February 3, 2000, was adopted by voice vote.

FEBRUARY 3, 2000
TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert A. Strode, St. John A.M.E. Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Coleman and Cox.

Senate Message

Announcing passage of **SB 75, SB 92, HB 80, HB 83, HB 183, HB 184, and HB 255.** (Time 2:15 p.m.)

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 2, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

The Speaker moved to grant floor privileges to Former Senator Georgie Powers and her guests.

Introduction of Bills and Resolutions

HB 559, by Representative J. Arnold: AN ACT relating to the Kentucky Law Enforcement Foundation Program.

HB 560, by Representatives Cherry and Geveden: AN ACT relating to boiler and pressure vessel inspectors.

HB 561, by Representative Baugh: AN ACT relating to public protection.

HB 562, by Representative Baugh: AN ACT repealing various safety provisions.

HB 563, by Representative Scott: AN ACT relating to highway weight limits.

HB 564, by Representative Palumbo: AN ACT relating to immunizations.

HB 565, by Representative Baugh: AN ACT relating to liquefied petroleum gas.

HCR 81, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board.

HCR 82, by Representatives Treesh, C. Belcher, Draud, Crall, Sims, Miller, Anderson, Graham, and Walton: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study the issue of the instruction of the principles of economics and the need for promoting economic education in public schools.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 541, HB 543, HB 545, HB 550, HB 553, HB 556**

Banking and Insurance: **HB 547, HB 551**

Education: **HB 548, SB 81**

Health and Welfare: **HB 546, HB 558**

Judiciary: **HB 549, HB 557, SB 65**

Licensing and Occupations: **HB 554**

Local Government: **HB 555, SB 62, SB 73, SB 74**

Natural Resources and Environment: **SCR 16**

Seniors, Military Affairs and Public Safety: **SB 55, SB 59**

State Government: **HB 544, HB 552**

Transportation: **HB 542, HJR 78**

House Floor: **HR 80**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 371, HB 445**

Licensing and Occupations: **HB 195**

Education: **HB 254, HB 399, HB 467, HB 25, HB 506**

Transportation: **HB 231, HB 482, HB 483, HB 488, HJR 9, HJR 15, HJR 72, HJR 76**

Report of Committees

The Committee on Tourism, Development, and Energy reported **HB 120**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 120, AN ACT relating to underground facility damage prevention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.4903 is amended to read as follows:

As used in KRS 367.4903 to 367.4917:

- (1) "Underground facility" means an underground~~la~~ line or system used for producing, storing, conveying, transmitting, or distributing telecommunications, electricity, gas, petroleum, petroleum products, cable television, hazardous liquids, water, steam, or sewerage, including storm drainage.
- (2) "Damage" means weakening of structural or lateral support or penetration of a facility coating, housing, or other protective device. It also means the partial or complete dislocation or severance of underground facilities.
- (3) "Demolition" means any operation by which a structure or mass of material is wrecked, razed, moved, or removed by means of any tools or~~mechanized~~ equipment, or discharge of explosives.
- ~~(4) "Mechanized equipment" means any equipment or tool energized by other than human or animal power.~~
- ~~(5) "Excavator" means any entity or individual, other than those exempted by Section 5 of this Act, engaged in a trade or business or government service which includes excavation or demolition. "Excavator" does not mean a utility operator or utility operator subcontractor performing work to provide or repair utility customer service.~~
- ~~(5)(6)~~ "Operator" means any entity or individual owning underground facilities to serve the public.
- ~~(6)(7)~~ "Excavation" means any activity that results in the movement, placement, probing, boring, or removal of earth, rock, or other material in or on the ground by the use of any tools or~~mechanized~~ equipment, or by the discharge of explosives.
- ~~(7)(8)~~ "Emergency" means there exists substantial likelihood that loss of life, property, or utility service will result before procedures required under KRS 367.4909 to 367.4913 can be completed.
- ~~(8)(9)~~ "Protection notification center" means an operator-provided notification center through which an excavator can contact the operator to enable the operator to provide the excavator with the approximate location of underground facilities.
- ~~(9)(10)~~ "One-call center" means a private sector, multimember protection notification center providing a single telephone contact number through which an excavator may contact all operator one-call center members and all affected operators may receive information to enable them to provide the excavator with the approximate location of underground facilities.
- ~~(10)(11)~~ "Routine road maintenance" means preservation, including road repairs and resurfacing, but not construction at the subgrade level; and surface ditch grading, but not grading below the original surface ditch depth.
- ~~(11)(12)~~ "Approximate location," when referring to an underground facility, means:
 - (a) For underground metallic facilities and underground nonmetallic facilities with metallic tracer wire, a distance not to exceed the combined width of the underground facility plus eighteen (18) inches measured from the outer edge of each side of the underground facility; or
 - (b) For nonmetallic facilities without metallic tracer wire, the underground facility shall be located as accurately as

possible from field location records.

- ~~(12)~~~~(13)~~ "Business day" means from 8 a.m. to 5 p.m. every day except Saturday, Sunday, and holidays established by federal or state statute.

Section 2. KRS 367.4909 is amended to read as follows:

- (1) Each operator shall provide protection notification center access to excavators.
- (2) Voluntary operator membership in a one-call protection notification center shall satisfy the requirement of subsection (1) of this section.
- (3) Each operator member of a one-call center shall provide and update as needed to the one-call center the general location of its facilities, the operator identity and business address, and emergency notification telephone numbers.
- (4) An operator shall, within two (2) business days after receiving notification from an excavator:
 - (a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition;
 - (b) Inform the excavator of any other information that would assist in locating and avoiding contact with or damage to underground~~operator~~ facilities;~~and~~
 - (c) Unless permanent facility markers are provided,~~the operator shall~~ provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility; and
 - (d) Notify the requesting party if underground facilities are not in conflict with the excavation or demolition.
- (5) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:

(a) Electric power distribution and transmission	Safety Red
(b) Municipal electric systems	Safety Red
(c) Gas distribution and transmission	High visibility safety yellow
(d) Oil distribution and transmission	High visibility safety yellow
(e) Dangerous materials, product lines	High visibility safety yellow
(f) Telecommunication systems <u>and cable television</u>	Safety alert orange
(g) <u>Temporary survey markings</u> ~~Cable television~~	<u>Safety pink</u> ~~Purple~~
(h) Police and fire communications	Safety alert orange
(i) Water systems	Safety precaution blue
(j) Sewer and storm drainage systems	Safety green
(k) Proposed excavation or construction boundaries	White
<u>(l) Reclaimed water, slurry, and irrigation facilities</u>	<u>Purple</u>
- (6) If extraordinary circumstances exist, an operator shall notify the excavator of the operator's inability to comply with this section. Extraordinary circumstances include, but are not limited to, extreme weather conditions, disasters, and similar situations that make timely response difficult or impossible.

Section 3. KRS 367.4911 is amended to read as follows:

- (1) Each excavator planning excavation or demolition work shall, not less than two (2) business days nor more than ten (10) business days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.
- (2) Each excavator shall provide each applicable protection notification center with adequate information regarding:
 - (a) The name of the individual making the notification;
 - (b) The ~~complete company~~ name, address, and ~~a business~~ telephone number for the excavator that is answered in person or by machine at all times during the business day;
 - (c) The excavation or demolition~~work~~ site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street where applicable;
 - (d) The type and, extent, duration, and scheduled starting date and time of excavation or demolition~~work~~ to be performed;
 - (e) A contact name and telephone number of the person responsible for the work to be performed at the site.
- (3) If more than one excavator will operate at the same site, each excavator shall notify the protection notification centers individually. Notification by a contractor will serve as notification for any of that contractor's employees. Failure by a contractor to notify the protection notification center does not relieve individual employees of responsibility.

- (4) The excavator shall inform and provide to each excavation or demolition~~[work]~~ site employee:
- (a) The underground facility location~~[and safety information]~~ provided by each operator;
 - (b) Any related safety information provided by each operator; and
 - (c) The locate request identification number assigned by the protection notification center.
- (5)~~[(4)]~~ The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition~~[work]~~ is completed.
- (6) If, after the two (2) day period provided by subsection (4) of Section 2 of this Act, the excavator finds evidence of an unmarked underground facility at the site:
- (a) The excavator shall notify the protection notification center;
 - (b) The excavator shall suspend excavation or demolition until the unmarked facility has been properly marked or otherwise identified; and
 - (c) The excavator may resume work in a safe and prudent manner if no operator responds within four (4) hours.
- (7) The excavator shall contact the protection notification center to request remarking every twenty-one (21) days while excavation or demolition continues or if:
- (a) The markings of any underground facility have been removed or are no longer visible; or
 - (b) The excavator has changed the work plan or location previously filed.
- ~~(5) Each excavator shall request each operator to remark its facilities if the temporary facility markers become nonfunctional or the excavator materially alters his work plan or location].~~
- ~~(8) [(6)]~~ Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage or which causes concern for public or workplace safety shall, immediately upon discovery of same, cease excavation and demolition activities and notify all affected operators and public safety agencies of the location and nature of the safety concern or underground facility damage.
- (9) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.
- ~~(10) [(7)]~~ Upon request by an operator, an excavator shall mark the boundaries of the location to be excavated using the procedure set forth in KRS 367.4909(5). This marking shall not alter, or relieve the excavator from complying with, the requirements of KRS 367.4905 to 367.4917.

Section 4. KRS 367.4913 is amended to read as follows:

Each protection notification center shall:

- (1) Operate the protection notification center during all business days.
- (2) Provide a locate request identification number to the excavator for each excavation or demolition location request.
- (3) Promptly~~[(Immediately)]~~ after receiving an excavation or demolition work notification from an excavator, provide to each of its affected operator members the excavator information required by KRS 367.4911(2).
- ~~(4) [(3)]~~ Maintain a list of all its operator member's identities, business address and business and emergency telephone numbers and record this information in accordance with KRS 64.012 with the county clerk of each county where the operator member has underground facilities. The county clerk shall provide this information upon request for the actual cost of providing a copy, to be paid by the requesting party to the county clerk. The county clerk shall assume no liability associated with the receipt of this information from the protection notification center or for subsequent provision of this same information to the requesting party.
- ~~(5) [(4)]~~ Make the operator members information list available to any person for inspection at its place of business without charge or provide a copy of the list to any person for any county upon request for a fee not to exceed the actual cost of providing a copy.

Section 5. KRS 367.4915 is amended to read as follows:

The requirements of KRS 367.4905 to 367.4917 shall not apply to the following:

- ~~(1) [Excavation after all involved excavators and operators have completed joint working agreements and documented that all proposed excavation and demolition was reviewed and notification provided.]~~
- ~~(2) [Excavation by an operator on its own easement except where that easement is crossed by another operator's facilities.]~~
- ~~(3) [Routine road maintenance.]~~
- ~~[(4) [Excavation using only nonpowered hand tools or animal power.]]~~
- ~~(2) [(5)]~~ Tilling of soil for agricultural purposes.
- ~~(3) [(6)]~~ Persons, other than those in the excavation business for hire, excavating on residential property, if there is no encroachment on any operator's right-of-way or easement.

~~(4)(7)~~ The opening of a grave in a cemetery.

~~(5)(8)~~ A solid waste disposal site which is properly permitted.

~~(6)(9)~~ Coal mining operations which are currently regulated under KRS Chapter 350.

Section 6. KRS 367.4917 is amended to read as follows:

(1) An excavator who fails to comply with any provision of Section 3 of this Act, or an operator who fails to comply with any provision of Section 2 of this Act, shall be guilty of endangering underground facilities and shall be subject to a fine of five hundred dollars (\$500) for the first offense, one thousand dollars (\$1,000) for the second offense, and three thousand dollars (\$3,000) for the third and any subsequent offense.

(2) A protection notification center that fails to comply with any provision of Section 4 of this Act shall be subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

~~Any person who violates any provision of KRS 367.4905 to 367.4913 shall be subject to a civil penalty of one thousand dollars (\$1,000) for each violation, except that the civil penalty shall be two hundred and fifty dollars (\$250) for the first violation and five hundred dollars (\$500) for the second violation. This penalty shall not apply for persons or acts excluded under KRS 367.4903(5), 367.4907, and 367.4915. Action to recover the penalty provided for in this section may be brought by the Attorney General at the request of the injured party in the county in which the cause arose or in which the defendant has its principal in-state place of business or residence. The Attorney General may engage the assistance of the county attorney or Commonwealth attorney in the appropriate jurisdiction. Each involved enforcement authority may recover its enforcement cost incurred under this section. Reimbursement of enforcement authority costs shall be administered by the Attorney General. All penalties recovered in an action under this section shall be paid to the Attorney General, who shall deduct enforcement costs from the recovered penalties and remit the remainder to the general fund. If enforcement costs exceed recovered penalties, the violator may be held responsible for any remaining enforcement costs.~~

The Committee Amendment No. 1 to HB 120 is as follows:

On page 4, line 6, by deleting the words "*but are not limited to*";

On page 4, line 17, by inserting the word "*excavator's*" after the word "The";

On page 4, by deleting line 18 in its entirety;

On page 4, line 19 by deleting the words "*during the business day*";

On page 4, line 27, by deleting the words "*at the site*";

On page 5, by replacing the words "*a contractor*" where they appear on line 2 and on lines 3 and 4, with the words "*an excavator*" in both places;

On page 5, line 3, by replacing the word "*contractor's*" with the word "*excavator's*";

On page 5, line 6, after "to" by inserting "*excavation or demolition*" and placing an opening bracket before and striking through "each" and by deleting "*excavation or demolition*" and by removing the opening bracket before "work";

On page 5, line 7, by inserting "*employees*" before "employee" and bracketing and striking through "employee";

On page 6, lines 4 through 9, by replacing subsection (8) completely and substituting therefor: "~~(8)(6)~~ Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage ~~or which causes concern for public or workplace safety~~ shall ~~immediately upon discovery of same~~ cease excavation ~~or~~ and demolition activities and notify all affected operators of the location and nature of the ~~safety concern or~~ underground facility damage. *If the underground facility damage causes concern for public or workplace safety, the excavator shall notify appropriate public safety agencies of the location and nature of the safety concern.*";

On page 7, line 15 by placing a closing bracket after "(2)" and removing the strikethroughs on that line and on line 16;

On page 7, line 17, at the beginning of the line by inserting "(2)" and by placing an opening bracket before "(3)";

On page 7, line 19, by deleting "(2)" and inserting in lieu thereof "(3)";

On page 7, line 20, by deleting "(3)" and inserting in lieu thereof "(4)";

On page 7, line 23, by deleting "(4)" and inserting in lieu thereof "(5)";

On page 7, line 24, by deleting "(5)" and inserting in lieu thereof "(6)";

On page 7, line 25, by deleting "(6)" and inserting in lieu thereof "(7)";

On page 7, after line 26, by inserting a new subsection to Section 5 as follows "*(8) A utility operator or utility operator subcontractor performing work to provide or repair utility customer service.*";

On page 8, line 3, by replacing the word "*shall*" with the word "*may*";

On page 8, line 4 by replacing the words "*five hundred dollars (\$500)*" with the words "*two hundred fifty dollars (\$250)*".

The Committee on Local Government reported **HB 61, HB 127, HB 131**, with Committee Amendment attached thereto, **HB 143, HB 258, HB 309, HB 326, HB 348, HB 444**, with Committee Substitute attached thereto, and **HB 471** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 61, AN ACT relating to intergovernmental agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

- (1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the General Assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.
- (2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the Constitution and statutes of this state now or hereafter enacted.
- (3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky Constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds, and employ personnel in performance of the following public functions:
 - (a) Control of animals, and abatement of public nuisances;
 - (b) Regulation of public gatherings;
 - (c) Public sanitation and vector control;
 - (d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;
 - (e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;
 - (f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums, and other recreational and cultural facilities and programs;
 - (g) Provision of cemeteries and memorials;
 - (h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation, and wildlife;
 - (i) Control of floods;
 - (j) Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures which present a hazard to public health, safety, or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial, and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;
 - (k) Planning, zoning, and subdivision control according to the provisions of KRS Chapter 100;
 - (l) Adoption, by reference or in full, of technical codes governing new construction, renovation, or maintenance of structures intended for human occupancy;
 - (m) Regulation of commerce for the protection and convenience of the public;
 - (n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 to 244;
 - (o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;
 - (p) Provision of public buildings, including armories, necessary for the effective delivery of public services;
 - (q) Cooperation with other units of government and private agencies for the provision of public services, including, but not limited to, training, educational services, and cooperative extension service programs;
 - (r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;
 - (s) Licensing or franchising of cable television;
 - (t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;
 - (u) Provision of police and fire protection;
 - (v) Regulation of taxis, buses, and other passenger vehicles for hire;
 - (w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;
 - (x) Promotion of economic development of the county, directly or in cooperation with public or private agencies,

including the provision of access roads, land and buildings, and promotion of tourism and conventions;

- (y) Preservation of historic structures; and
 - (z) Regulation of establishments or commercial enterprises offering adult entertainment and adult entertainment activities.
- (4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.
- (5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.
- (6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation:
- (a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation;
 - (b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard;
 - (c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.
- (7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:
- (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor of each city in the county.
- (8) (a) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. These powers, other than the power to tax, may be exercised cooperatively by two (2) or more counties, or by a county and a city, or by a county and a special district, or by a county and the state through, but not limited to, joint contracts, joint ownership of property, or the exchange of services, including personnel and equipment. When counties cooperate in the provision of public services, contracts shall be drawn to document the (insure that) benefits and relative cost for each of (among) the participating governments. One (1) government may pay one hundred percent (100%), or a lesser percentage, of all or any part of the cost of the joint undertaking, based upon the written contract required by this subsection~~[are relative to costs among them. If the personnel or equipment of one (1) government is provided for a second government, the second government shall fully compensate the first through the reciprocal provision of services or through monetary compensation].~~
- (b) A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.
- (9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

Section 2. KRS 178.010 is amended to read as follows:

- (1) As used in this chapter, unless the context otherwise requires:
- (a) "Construction" includes reconstruction and improvement;
 - (b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system after July 1, 1914, or private roads, streets, or highways which have been acquired by the county pursuant to KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls; and
 - (c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit.
- (2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of such city.
- (3) Nothing in this chapter shall prevent any fiscal court from acquiring land by gift for public purposes.
- (4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.220 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed

upon any street located within the city. *A county may pay one hundred percent (100%), or a lesser percentage, of all or any part of the cost of the joint undertaking, based upon the terms agreed to in the interlocal cooperative agreement required by this subsection,* ~~provided that the city agrees to pay the costs if any associated with any such agreement.~~

HB 127, AN ACT relating to the disposition of real and personal property by counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.080 is amended to read as follows:

- (1) The fiscal court may:
 - (a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;
 - (b) Sell and convey any real estate *or personal property* belonging to the county, and buy land for the use of the county, when necessary, for the lawful purposes of the county as provided for in this section and KRS 67.083. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded.
 - 1. When real property is purchased, the county shall pay no more than the highest appraised value, as determined by a Kentucky certified real property appraiser as defined in KRS 324A.010, or the price determined through exercising the power of eminent domain, if that power is used. A valuation of the real property shall not be required if the purchase price is forty thousand dollars (\$40,000) or less;*
 - 2. When real property is conveyed or sold, the county shall convey or sell it in accordance with Section 2 of this Act; and*
 - 3. When personal property is conveyed or sold, the county shall convey or sell it in accordance with Section 2 of this Act.*
 - (c) Regulate and control the fiscal affairs of the county;
 - (d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, employ a competent person to keep such accounts and records, pay such person a reasonable compensation for such services, and have the accounts of the county and all county officers audited, when necessary and in accordance with the provisions of KRS 43.070 and 64.810;
 - (e) Exercise all the corporate powers of the county unless otherwise provided by law;
 - (f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices; and
 - (g) Investigate all activities of the county government.
- (2) The fiscal court shall:
 - (a) Appropriate county funds, according to the provisions of KRS 68.210 to 68.360, for purposes required by law;
 - (b) As needed, cause the construction, operation, and maintenance of all county buildings and other structures, grounds, roads and other property;
 - (c) Adopt an administrative code for the county; and
 - (d) Provide for the incarceration of prisoners according to the provisions of KRS Chapter 441.
- (3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) A county may sell or otherwise dispose of any of its real or personal property.*
- (2) Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:*
 - (a) The real or personal property;*
 - (b) Its intended use at the time of acquisition;*
 - (c) The reasons why it is in the public interest to dispose of it; and*
 - (d) The method of disposition to be used.*
- (3) Real or personal property may be:*
 - (a) Transferred, with or without compensation, to another governmental agency, or*
 - (b) Sold at public auction or by sealed bids in accordance with KRS 45A.365.*
- (4) If a county receives no bids for the real or personal property, either at public auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund*

of the county.

HB 131, AN ACT relating to surplus property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1) The Finance and Administration Cabinet shall notify the Kentucky Housing Corporation of any surplus real property to be disposed of by a local public school board or by the Department of Transportation if the real property is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used for affordable public and private housing development. The cabinet shall notify the corporation within one (1) week of notification by a local school board or the Department of Transportation that surplus real property is available.
- (2) The corporation shall maintain a list of interested housing developers and provide information on available and suitable surplus real property to persons on this mailing list as it becomes available from the Finance and Administration Cabinet in accordance with subsection (1) of this section. The corporation shall also provide information on when and how the surplus real property will be made available for purchase.
- (3) Any properties acquired through the provisions of this section shall comply with Section 2 of this Act in addition to all local and state building codes and the planning and zoning requirements of that locale.

Section 2. KRS 45A.045 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.
 - (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.
 - (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.
 - (c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.
- (2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.
- (3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.
- (4) (a) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet. If the real property is to be converted into affordable housing, the selling price of any interest in real property shall be the best offer as long as it is equal to or greater than the fair market value of the property.

(b) In order to encourage the conversion of state-owned land and buildings for both public and private housing development, the Finance and Administration Cabinet shall notify the Kentucky Housing Corporation of any surplus real property to be disposed of by a local public school board or by the Department of Transportation if the real property is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used for affordable public and private housing development. The cabinet shall notify the Kentucky Housing Corporation within one (1) week of notification by a local school board or the Department of Transportation that surplus real property is available.

- (5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Purchases, Surplus Property Branch, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.
- (7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.
- (8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.
- (9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.
- (11) For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:
 - (a) A total design-bid basis;
 - (b) A package system commonly referred to as "turnkey";
 - (c) Phase bidding commonly referred to as "fast track"; or
 - (d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

- (12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming

equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

The Committee Amendment No. 1 to **HB 131** is as follows:

On page 1, line 11, after the numeral "(2)", remove all new language on lines 11 through 16 and replace with the following new language:

"The corporation shall provide information on available surplus property as the information becomes available from the Finance and Administration Cabinet in accordance with subsection (1) of this section."

HB 143, AN ACT relating to relocated cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81.380 is amended to read as follows:

- (1) Any city, located in a county containing a city of the first class, which is located within an area which is adversely affected by a public project that has been initiated by a city of the first class, or by action of a joint agency of a city of the first class and the county, after June 30, 1998, or upon the expiration of the initial twelve (12) year term provided in KRS 79.310(2) of a cooperative compact which is in effect in the county pursuant to KRS 79.310 to 79.330, may by ordinance relocate the corporate boundaries of the city to an unincorporated area of the county. The ordinance shall set out by metes and bounds that unincorporated area of the county where the city will be relocated. The area designated for relocation shall not exceed the acreage within the then existing boundaries of the relocating city.
- (2) All financial assets and legal obligations of the city shall not be altered or interrupted by a relocation.
- (3) A city of the first class shall relinquish all priority rights or any rights pursuant to the terms of a cooperative compact for annexation to that unincorporated area which is designated for the relocation of a city as provided for in subsection (1) of this section. Any priority rights or any rights pursuant to the terms of a cooperative compact for annexation which are relinquished for the relocation of a city shall then be attached in the name of the city of the first class to that area which has been abandoned by the relocating city pursuant to subsection (5) of this section. The relocating city shall forward a copy of the ordinance adopted pursuant to subsection (1) of this section to the mayor of the city of the first class and the county judge/executive of the county.
- (4) The right of a city to relocate is in no way meant to amend any provision of the statutes which govern the formation and operation of a cooperative compact created pursuant to KRS 79.310 to 79.330.
- (5) Upon the relocation of a city, the city clerk shall forward to the Secretary of State within one (1) year from the date of the relocation, a document listing the name of the city, the date of the relocation, the present classification of the city, and a certified copy of the ordinance adopted pursuant to subsection (1) of this section. If a city fails to comply with this subsection~~section~~, it shall be barred from receiving state moneys until the city complies.
- (6) Until ninety percent (90%) of the residential properties located within the relocating city's boundaries are acquired for the public project, the boundaries of the city shall include both the old city site and the area designated for the location of the new site of the city.
- (7) After ninety percent (90%) of the residential properties have been acquired as set forth in subsection (6) of this section, the boundaries of the city shall no longer include the area where the city existed before relocation.
- (8) **A city that has been relocated according to the provisions of this section may change the name of the city by the adoption of an ordinance by the city legislative body. Upon the act of renaming a city, the city clerk shall forward to the Secretary of State, within one (1) year from the date of the renaming, a document listing the new name of the city, the date of the renaming, the present classification of the city, and a certified copy of the ordinance adopted in accordance with KRS 83A.060. If a city fails to comply with the provisions of this subsection, it shall be barred from receiving state moneys until the city complies.**

HB 258, AN ACT relating to retirement.***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

Section 1. KRS 78.615 is amended to read as follows:

- (1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).
 - (a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.
 - (b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars (\$1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars (\$250) for each additional thirty (30) day period the information is reported late.
 1. If the employee works fewer than the number of contracted days, the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
 2. If the employee works fewer than the number of contracted days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
 3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.
 - (c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185) day contract for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.
- (2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.
- (3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:
 - (a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and
 - (b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is

broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

HB 309, AN ACT relating to jail operating expenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.206 is amended to read as follows:

- (1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the State Treasury in an amount equal to that paid to the county pursuant to this section in fiscal year 1983-84 or the amount that should have been paid to the county in fiscal year 1983-84 under the conditions set forth in subsection (5) of this section. Any additional moneys appropriated for county jails shall be allocated on the basis of a formula comprised of the following factors:
 - (a) Sixty percent (60%) of the allocation shall be based on the amount of the 1983-84 funding formula each county received, or should have received under the conditions set forth in subsection (5) of this section;
 - (b) Ten percent (10%) of the allocation shall be based on each county's comparative ranking of median household income in inverse order, as determined by the 1980 federal census of population; and
 - (c) Thirty percent (30%) of the allocation shall be based on the proportion of each county's age at risk population (18-34) to the state total, as determined by the 1980 federal census of population.
- (2) Payments of the state contribution for jail operating expenses shall be made monthly by the Department of Corrections to the county treasurer. The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by KRS 441.025, shall not affect the state contribution provided for in subsection (1) of this section.
- (3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city, or another county for the incarceration of prisoners and any interest earned on the funds shall be expended on the incarceration of prisoners, as provided in KRS 441.025. Any funds paid under subsection (1) of this section and any interest earned on the funds shall be expended on the incarceration of prisoners, in accordance with regulations promulgated pursuant to KRS 441.055, within twelve (12) months of the close of the fiscal year in which the funds were received. Any funds received by a county under subsection (1) of this section that are not expended for this purpose shall be returned to the State Treasury.
- (4) A county shall not receive less than ~~fifty [twenty-four]~~ thousand dollars ~~(\$50,000) [(\$24,000)]~~ pursuant to this section from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law.
- (5) If the capacity of a jail was substantially increased during the years 1980 through 1982 due to construction or renovation, and if, a result, the amount paid to the county in fiscal year 1983-84 pursuant to this section and to 1982 Ky. Acts ch. 385, sec. 3, was not representative of the true jail population, then the commissioner of the Department of Corrections may, upon proper documentation by the county, permit an estimate of the current capacity of the jail to be used as a basis for calculating the amount that should have been paid to the county in fiscal year 1983-84. The estimate of current capacity shall be used to calculate payments made pursuant to subsection (1) of this section after July 14, 1992, but shall not be used to recalculate past payments.

HB 326, AN ACT related to the probationary period of police and firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.762 is amended to read as follows:

- (1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or firefighter, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firefighters. Every member of the police or fire department shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.
- (2) No person shall be appointed a member of the police or fire departments unless he is well known to be a person of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty-one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or firefighter and is not over fifty-five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the

ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds.

- (3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.
- (4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.785 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firefighters, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firefighters, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.
- (5) The civil service commission may provide that appointments for initial permanent employment may be probationary appointments for a period of not more than ~~six (6)~~ *twelve (12)* months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

HB 348, AN ACT relating to manufactured homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *When a manufactured home is or is to be permanently affixed to real estate, the owner may execute and file an Affidavit of Conversion to Real Estate with the county clerk of the county in which the real estate is located. The affidavit shall attest to the fact that the home has been permanently affixed to the real estate and be accompanied by a surrender of the Kentucky certificate of title. The county clerk shall file the Affidavit of Conversion to Real Estate in the miscellaneous record book.*
- (2) *A county clerk shall not accept a surrender of a Kentucky certificate of title which displays an unreleased lien. When the county clerk files the Affidavit of Conversion to Real Estate, the county clerk shall furnish a copy to the property valuation administrator for inclusion in the real property tax rolls of the county. A filing of an Affidavit of Conversion to Real Estate and a surrender of a Kentucky certificate of title shall be deemed a conversion of the property as an improvement to the real estate upon which it is located.*

Section 2. KRS 132.720 is amended to read as follows:

As used in KRS 132.260 and 132.751, unless the context otherwise requires:

- (1) *"Manufactured home" has the same meaning as in KRS 186.650.*
- (2) *"Mobile home," "recreational vehicle," "mobile home park," and "recreational vehicle park" have the same meanings as in KRS 219.320.*
- ~~(3)(2)~~ *"Unit" means any single mobile home, **manufactured home**, or recreational vehicle.*
- ~~(4)(3)~~ *"Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land.*

Section 3. KRS 132.751 is amended to read as follows:

- (1) Mobile homes *or manufactured homes* not held for resale by a dealer shall be classified as real property for the purpose of the levy and assessment of ad valorem taxes, regardless of whether or not the wheels or mobile parts have been removed and whether or not the unit rests on a permanent, fixed foundation.
- (2) Recreational vehicles shall be classified as real property if the wheels or mobile parts have been removed and the unit rests on a permanent, fixed foundation.

HB 444, AN ACT relating to charitable community foundations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.1575 is amended to read as follows:

- (1) As used in this section:
 - (a) "Foundation" means a charitable community foundation established to accept gifts, bequests, devises, or other transfers for the purpose of meeting charitable objectives for the citizens of the community;
 - (b) "Local government" means every city, regardless of classification, every county, ~~and~~ every charter county and urban-county government, *and every board of education;* ~~and~~
 - (c) "Component fund" means an individual fund treated as part of a foundation and that meets the requirements

established under regulations promulgated implementing 26 U.S.C. sec. 170 as amended from time to time; and

- (d) "Nonprofit organization" means an organization incorporated under KRS Chapter 273 and exempt under Section 501(c)(3) of the Internal Revenue Code.
- (2) (a) A local government may donate to a foundation the proceeds from the sale of any utility or facility or any grant, bequest, or devise received by it.
- (b) A local government may contribute to a nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code for the development and operation of a community center or recreational facilities.
- (3) If the foundation receives a gift from a local government that is subject to conditions, limitations, or requirements by the donor, the gift shall be segregated in a component fund within the foundation, which shall be subject to conditions, limitations, or requirements that are substantially identical to those established by the donor.
- (4) If the foundation receives a gift from a local government that is not subject to any specified conditions, limitations, or requirements by the donor, the gift amount shall be maintained in a component fund. The income from the fund shall be distributed to the local government for charitable purposes as directed by an ordinance of the governing body of the local government.
- (5) If a nonprofit organization receives a gift from a local government it shall maintain the financial records so as to be able to ascertain the use of the donated funds.
- (6) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code shall return any donations to the general fund of a local government if:
- (a) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code loses its status as a public charitable organization;
- (b) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code is liquidated; or
- (c) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code violates any condition, limitation, or requirement as established by the local government governing body.

The Committee Substitute to **HB 444** is as follows:

HB 444, AN ACT relating to charitable community foundations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.1575 is amended to read as follows:

- (1) As used in this section:
- (a) "Foundation" means a charitable community foundation established to accept contributions, including gifts, bequests, devises, appropriations, or other transfers for the purpose of meeting public or charitable objectives for the citizens of the community;
- (b) "Local government" means every city, regardless of classification, every county, ~~and~~ every charter county and urban-county government, and every board of education; ~~and~~
- (c) "Component fund" means an individual fund treated as part of a foundation and that meets the requirements established under regulations promulgated implementing 26 U.S.C. sec. 170 as amended from time to time; and
- (d) "Nonprofit organization" means an organization incorporated under KRS Chapter 273 and exempt under Section 501(c)(3) of the Internal Revenue Code.
- (2) (a) A local government may donate to a foundation the proceeds from the sale of any utility or facility or any grant, bequest, or devise received by it.
- (b) A local government may contribute to a nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code for the development and operation of a community center or recreational facilities.
- (3) If the foundation receives a contribution~~gift~~ from a local government that is subject to conditions, limitations, or requirements by the donor, the contribution~~gift~~ shall be segregated in a component fund within the foundation, which shall be subject to conditions, limitations, or requirements that are substantially identical to those established by the donor.
- (4) If the foundation receives a contribution~~gift~~ from a local government that is not subject to any specified conditions, limitations, or requirements by the donor, the contribution~~gift~~ amount shall be maintained in a component fund. The income from the fund shall be distributed to the local government for public or charitable purposes as directed by an ordinance of the governing body of the local government.
- (5) If a nonprofit organization receives a contribution from a local government it shall maintain the financial records so as to be able to ascertain the use of the donated funds.
- (6) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code shall return any

~~contributions~~~~[donations]~~ to the general fund of a local government if:

- (a) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code loses its status as a public charitable organization;
- (b) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code is liquidated; or
- (c) The foundation or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code violates any condition, limitation, or requirement as established by the local government governing body.

HB 471, AN ACT changing the classification of the City of White Plains in Hopkins County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of White Plains, in Hopkins County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of White Plains, in Hopkins County, is transferred from the sixth to the fifth class of cities.

The Committee on Economic Development reported **SB 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 34, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context indicates otherwise:

- (1) "Board" means the board of directors of the Red Fox Tri-County Cooperative Corporation;
- (2) "Corporation" means the Red Fox Tri-County Cooperative Corporation, consisting of Knott, Letcher, and Perry Counties; and
- (3) "Project" means the Red Fox Golf Course and Tourism Project.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Red Fox Tri-County Cooperative Corporation, consisting of Knott, Letcher, and Perry Counties, is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The corporation shall develop, operate, and manage the Red Fox Golf Course and Tourism Project funded by 1998 Ky. Acts ch. 615, Parts I and X. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The corporation shall be governed by a board of directors consisting of seven (7) voting members and three (3) ex officio members as follows:
 - (a) Three (3) members representing the three (3) county governments, one (1) to be appointed by the county judge/executive of Knott County, one (1) to be appointed by the county judge/executive of Letcher County, and one (1) to be appointed by the county judge/executive of Perry County;
 - (b) Three (3) members appointed by the Governor, one (1) each from Knott, Letcher, and Perry Counties;
 - (c) The secretary of the Finance and Administration Cabinet, or his or her designee, as a voting member;
 - (d) The secretary of the Tourism Development Cabinet, or his or her designee, as an ex officio, nonvoting member;
 - (e) The secretary of the Cabinet for Economic Development, or his or her designee, as an ex officio, nonvoting member; and
 - (f) The commissioner of the Department for Local Government, or his or her designee, as an ex officio, nonvoting member.
- (2) Appointed members shall serve staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:
 - (a) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Knott County shall each serve a term of four (4) years;
 - (b) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Letcher County shall each serve a term of three (3) years;
 - (c) The one (1) member appointed by the county judge/executive of Perry County shall serve a term of two (2)

years; and

- (d) One (1) member appointed by the Governor shall serve a term of one (1) year.
- (3) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B.
- (4) Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.
- (2) Five (5) members of the board shall constitute a quorum, with a majority of members present authorized to act upon any matter legally before the corporation.
- (3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.
- (4) The board may adopt administrative regulations governing the operation, maintenance, or use of property under its custody and control in accordance with KRS Chapter 13A.
- (5) Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.
- (6) The board may establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by vote of a majority of the members of the board.
- (7) The board may employ a full-time executive director who shall hold office at the board's pleasure.
 - (a) The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.
 - (b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all of the documents, which shall be public records under KRS 61.870 to 61.884.
- (8) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Red Fox Tri-County Cooperative Corporation shall have the following powers and duties:

- (1) The corporation shall supervise the design and construction of the Red Fox Golf Course project and shall provide all operation and management functions for the facility and for any other property acquired or leased under its powers established in this section. The corporation shall provide any assistance necessary to the Kentucky Transportation Cabinet in the design and building of roads associated with the project.
- (2) The corporation shall promote the growth and development of the project and shall promote tourism and recreation in the area through the project.
- (3) The corporation shall have the exclusive control of all functions at the golf course facility.
- (4) The corporation shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract tourists to the project.
- (5) The corporation may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, lease, or by transfer from the State Property and Buildings Commission, and may dispose of any property so acquired in any manner by law.
- (6) The corporation may levy a surcharge on golf course fees to contribute to operating revenue.
- (7) The corporation may sue and be sued and maintain and defend legal actions in its corporate name.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) All revenues derived by the corporation from the use of the Red Fox project, contributions to the Red Fox Tri-County Cooperative Corporation from other sources, and any revenues derived by the corporation from any other source shall be used solely for defraying the expenses of the corporation, including payment on debt; the cost of management and operation of its facilities; the creation of an adequate reserve for repair, replacement, debt service, and capital improvements; the procurement of insurance; and promotional activities.
- (2) The Auditor of Public Accounts shall conduct an annual audit of all funds of the corporation and its affiliated entities, if any, and shall report to the Governor and the Legislative Research Commission.

Section 7. The General Assembly confirms Executive Order 98-1025, dated August 3, 1998, as amended by Executive Order 98-1143, dated August 24, 1998, to the extent they are not otherwise confirmed or superseded by this Act.

The Committee on Banking and Insurance reported **HB 384**, with Committee Amendment attached thereto, and **SB 40** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 384, AN ACT relating to credit cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (a) "Credit card" means any single card, plate, or other credit device that is reusable by a debtor from time to time to obtain extensions of credit under a revolving credit plan. Checks, drafts, and similar instruments that can be used only once to obtain a single credit extension are not credit cards;
- (b) "Credit card issuer" means any person or entity who issues a credit card or the employee or agent of the person or entity, or any person or entity involved, in any manner, with any solicitation with respect to the card;
- (c) "Solicitation" means an act of asking, enticing, or requesting, by whatever means or medium, a student to read, review, or consider materials relating to an application for a credit card or to complete an application for a credit card; and
- (d) "Student" means a person who attends an institution, whether enrolled on a full-time or part-time basis.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Prior to engaging in the solicitation of a student on the campus of an institution, a credit card issuer shall register its intent to solicit the student for that purpose with an official of the institution designated by the governing board of that institution. The registration shall be in such form as required by the policy of the institution and shall include the principal place of business of the credit card issuer and a statement of the annual interest rate and annual fee.
- (2)
 - (a) It is unlawful to offer gifts or any other promotional incentives on the campus of an institution to students in connection with solicitation of credit cards.
 - (b) The annual interest rate and annual fee must be prominently displayed at the site on campus where the credit card issuer solicits students.
 - (c) The credit card issuer is prohibited from providing an application to a student unless the student has signed a credit card education information sheet described in subsection (1) of this section.
- (3) If the institution permits the solicitation of students on campus for credit cards, the institution shall include a credit seminar within the institution's freshman orientation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for a credit card issuer to take any debt collection action, including but not limited to telephone calls or demand letters, against the parent or legal guardian of a student for whom a credit card has been issued, unless the parent or legal guardian has agreed in writing to be liable for the debts of the student under the credit card agreement.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any credit card issuer violating Section 2 or 3 of this Act shall be deemed guilty of a misdemeanor and fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each violation.

The Committee Amendment No. 1 to **HB 384** is as follows:

On page 2, by deleting lines 5 to 7 in their entirety.

SB 40, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-051 is amended to read as follows:

As used in KRS 304.9-052, ~~and~~ 304.9-371 to 304.9-377, and Sections 3, 4, and 8 of this Act:

- (1) ~~["An"]~~ "Administrator" ~~means [ie]~~ a person who directly or indirectly collects charges or premiums from or who adjusts or settles claims on, residents of this state, or residents of another state from offices in Kentucky, in connection with life insurance, health insurance, annuities, nonprofit hospital, medical-surgical, dental, and health service corporation contracts, health maintenance organization contracts, or prepaid dental plan organization contracts or other life, health, or annuity benefit plans. The following are not considered to be acting as administrator:
 - (a) An employer acting on behalf of its employees or the employees of one (1) or more subsidiary or affiliated corporations of the employer;
 - (b) A union on behalf of its members;

- (c) An insurer, which is either authorized or permitted to transact business in Kentucky or acting as an insurer with respect to a contract lawfully delivered or issued for delivery by it in and pursuant to the laws of a state in which it was authorized or permitted to do business;
 - (d) A life or health insurance agent licensed in Kentucky whose activities are limited exclusively to the sale of insurance;
 - (e) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;
 - (f) A trust, its trustees, agents, and employees acting thereunder, established in conformity with 29 U.S.C. sec. 186;
 - (g) A trust exempt from taxation under 26 U.S.C. sec. 501(a), its trustees, and employees acting thereunder, or a custodian, its agents, and employees acting pursuant to a custodian account which meets the requirements of 26 U.S.C. sec. 401(f);
 - (h) A bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities;
 - (i) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims; or
 - (j) A person who adjusts or settles claims in the normal course of practice or employment as an attorney-at-law, and who does not collect charges or premiums in connection with coverages issued by insurers.
- (2) "Commissioner" means the commissioner of the Kentucky Department of Insurance.
- (3) "Health benefit plan" has the meaning it is given in KRS 304.17A-005.
- (4) "Insurance" is coverage issued by an insurer as defined herein.
- ~~(5)(3)~~ An "insured" is a person covered under an insurance contract, nonprofit hospital, medical-surgical, dental, and health service corporation contract, health maintenance organization contract, prepaid dental plan organization contract, or other source of benefits.
- (6) "Insurer" has the meaning it is given in KRS 304.17A-005.
- ~~(4) An "insurer" is an insurer, nonprofit hospital, medical-surgical, dental, health service corporation, health maintenance organization, prepaid dental plan organization, or other sources of benefits.~~
- (7) "Insurer-controlled" has the meaning as defined in KRS 304.17A-005.
- (8) "Underwriting" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer, the overall planning and coordinating of a health benefit plan, and the ability to procure bonds and excess insurance.

Section 2. KRS 304.9-052 is amended to read as follows:

- (1) No person shall in this state be, act as, or hold himself out to be an administrator unless then licensed as an administrator by the commissioner. An application to be an administrator shall be made to the commissioner upon a form to be furnished by the commissioner. The application shall include or be accompanied by the following:
 - (a) All organizational documents of the administrator, including articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents and all amendments to the documents;
 - (b) The bylaws, rules, or similar documents regulating the internal affairs of the administrator;
 - (c) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the administrator, including:
 - 1. All members of the board of directors, board of trustees, executive committee, or other governing board or committee;
 - 2. The principal officers in the case of a corporation or the partners or members in the case of a partnership or association;
 - 3. Shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the administrator; and
 - 4. Any other person who exercises control or influence over the affairs of the administrator;
 - (d) Evidence of financial responsibility consisting of a surety bond executed by an insurer authorized to write business in the Commonwealth, in the sum of one hundred thousand dollars (\$100,000), which shall be subject to lawful levy of execution by any party to whom the licensed person has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as an administrator;
 - (e) Any other pertinent information required by the commissioner; and
 - (f) The fee prescribed under KRS 304.4-010.
- (2) The applicant shall make available for inspection by the commissioner copies of all contracts with insurers or other

~~persons utilizing the services of the administrator~~ [For the protection of the people of this state, the commissioner shall not issue, continue, or permit to exist any administrator license for any person unless such person demonstrates to the satisfaction of the commissioner that the following standards are met:

- ~~(a) If a natural person, the applicant has attained the age of twenty-one (21) years;~~
 - ~~(b) The applicant is competent, trustworthy, reliable, and of good reputation;~~
 - ~~(c) The applicant has attained an educational level acceptable to the commissioner;~~
 - ~~(d) The applicant is financially responsible;~~
 - ~~(e) The applicant has not had any license issued by the commissioner, or application therefor, terminated for cause;~~
 - ~~(f) The applicant has paid the fee prescribed in KRS 304.4-010;~~
 - ~~(g) If a corporation or firm, each person authorized to act for the corporation or firm under its administrator license must hold an administrator license; and~~
 - ~~(h) Administrator licenses shall be issued by the commissioner to expire on March 31, 1987, and to be renewed biennially thereafter.~~
- (3) The commissioner may refuse to issue a license if the commissioner determines that the administrator has had an insurance or an administrator license or certificate of authority denied or revoked for cause by any state [The license of an administrator may be suspended or revoked, a civil penalty imposed in lieu thereof, or both, for any reason an insurance agent's license could be suspended or revoked, a civil penalty imposed in lieu thereof, or both, pursuant to KRS 304.9-440. The procedures of KRS 304.9-440, 304.9-450, and 304.9-460 relating to suspended or revoked insurance agent licenses apply to administrator licenses].
- (4) An administrator is not required to hold an administrator license if all the following conditions are met:
- (a) The administrator has its principal place of business in another state;
 - (b) The administrator is not soliciting business as an administrator in Kentucky; and
 - (c) In the case of any group policy or health benefit plan serviced by the administrator, the lesser of five percent (5%) or one hundred (100) certificate holders reside in Kentucky.
- (5) An administrator shall immediately notify the commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in Kentucky.
- (6) Administrator licenses shall be renewed annually on March 31, at which time all administrators shall meet the requirements of subsection (1) of this section.
- (7) Nonresident administrators are deemed to have irrevocably appointed the Secretary of State as agent for the acceptance of service of process issued in Kentucky in any action or proceeding against the licensee arising out of such licensing or out of transactions under the license. The Secretary of State shall administer service of process on nonresident administrators in the manner of service of process on nonresident insurance agents.

SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Upon request from an administrator, the commissioner may waive the application requirements of Section 2 of this Act if the administrator has a valid license or a valid certificate of authority as an administrator issued in a state that has standards for administrators that are congruent with the standards set forth in Section 2 of this Act. However, the fee prescribed under KRS 304.4-010 shall not be waived, and shall be submitted to the commissioner at the time the administrator makes the request for the waiver.

SECTION 4. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The license of an administrator shall be suspended or revoked if the commissioner finds that the administrator:
- (a) Is insolvent; or
 - (b) Has failed to pay any judgment rendered against it in Kentucky within sixty (60) days after the judgment has become final;
 - (c) Has been convicted of or has entered a plea of guilt or nolo contendere to a felony in Kentucky, without regard to whether adjudication was withheld; or
 - (d) Is under suspension or revocation in another state.
- (2) The commissioner may, in his or her discretion, suspend or revoke the license of an administrator if the commissioner finds that the administrator:
- (a) Has been adjudged by a court of competent jurisdiction or administrative agency to be in violation of any provision of the insurance laws or administrative regulations of Kentucky;
 - (b) Has refused to be examined or to produce its accounts, records, and files for examination, or if any of its officers has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination, when required by the commissioner;

- (c) Is affiliated with or under the same general management or interlocking directorate or ownership of another administrator or insurer that transacts business in this state without having a license; or
- (d) At any time fails to meet any qualification for which issuance of the license could have been refused had that failure then existed and been known to the commissioner.
- (3) The commissioner may, in his or her discretion and without advance notice or hearing, immediately suspend the license of an administrator if the commissioner finds that one (1) or more of the following circumstances exist:
 - (a) The administrator is insolvent; or
 - (b) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in another state.
- (4) The procedures of KRS 304.9-450 and 304.9-460 relating to suspended or revoked insurance agent licenses shall apply to administrator licenses.

Section 5. KRS 304.9-371 is amended to read as follows:

- (1) No administrator shall act ~~as such~~ without a written agreement between the administrator and the insurer. ~~The~~~~[Such]~~ written agreement shall be retained as part of the official records of both parties to the transaction for the duration of the agreement and at least five (5) years thereafter. ~~The~~~~[Such]~~ written agreement shall contain provisions which include the requirements of KRS 304.9-372 to 304.9-377, except insofar as those requirements do not apply to the functions performed by the administrator.
- (2) Where a contract is issued to a trustee or trustees, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both parties for the duration of the contract and at least five (5) years thereafter.
- (3) The written agreement shall include a statement of duties that the administrator is expected to perform on behalf of the insurer and the lines, classes, or types of insurance for which the administrator is to be authorized to administer.
- (4) The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute between the insurer and the administrator. The insurer shall fulfill any lawful obligations with respect to policies affected by the written agreement, regardless of any dispute between the insurer and the administrator.

Section 6. KRS 304.9-373 is amended to read as follows:

- (1) Every administrator shall maintain at its administrative office, for the duration of the written agreement referred to in KRS 304.9-371 and at least five (5) years thereafter, adequate books and records of all transactions between it, insurers, and insureds. ~~The~~~~[Such]~~ books and records shall be maintained in accordance with prudent standards of insurance industry recordkeeping.
- (2) The commissioner shall have access to ~~the~~~~[such]~~ books and records for the purpose of examination, audit, and inspection. Any trade secrets contained therein, including but not limited to the identity and addresses of insureds, shall be confidential except the commissioner may use ~~the~~~~[such]~~ information in any proceedings instituted against the administrator.
- (3) An insurer shall retain the right to continuing access to ~~the~~~~[such]~~ books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insureds subject to any restrictions in the written agreement between the insurer and administrator on the ~~proprietary~~~~[proprietary]~~ rights of the parties in ~~the~~~~[such]~~ books and records.
- (4) Any examination or any part of the examination of any administrator shall be made by the commissioner or by examiners designated by him and shall be at the expense of the administrator examined as specified in Subtitle 2 of this chapter.
- (5) Notwithstanding the provisions of subsection (1) of this section, if the insurer and the administrator cancel their agreement, the administrator may, by written agreement with the insurer, transfer all records to a new administrator rather than retain them for five (5) years, provided, however, that the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in subsection (1) of this section.

Section 7. KRS 304.9-374 is amended to read as follows:

An administrator may use only ~~[such]~~ advertising pertaining to its business underwritten by an insurer ~~that~~~~[as]~~ has been approved in writing by ~~the~~~~[such]~~ insurer in advance of its use.

SECTION 8. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) It is the sole responsibility of the insurer to provide for competent administration of its programs.
- (2) In cases in which an administrator administers benefits for more than one hundred (100) certificate holders on behalf of an insurer, the insurer shall annually conduct an on-site review of the operations of the administrator. At least one (1) review shall be an on-site audit of the operations of the administrator.

Section 9. KRS 304.9-377 is amended to read as follows:

Where the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer to insureds advising them of the identity of and the relationship among the administrator, the group contract holder, and the insurer.

Where an administrator collects funds, it must identify and state separately in writing to the person paying to the administrator any charge or premium for coverage the amount of any such charge or premium specified by the insurer for ~~the[such]~~ coverage.

The Committee on Judiciary reported **HB 88**, **HB 89**, and **HB 433**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT related to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.320 is amended to read as follows:

- (1) The Governor shall appoint a Parole Board consisting of seven (7) full-time members ~~and two (2) part-time members, as described in subsection (7) of this section~~, to be confirmed by the Senate in accordance with KRS 11.160. ~~The Governor[He]~~ shall make each appointment for full-time and part-time members from a list of three (3) names given to him by the Commission on Correction and Community Service. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than five (5)~~four (4)~~ board members shall be of the same political party. The board shall be attached to the Justice Cabinet for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.
- (2) The Governor shall name one (1) full-time member as chairman of the board. The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational, and personnel matters of the board.
- (3) The full-time members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars (\$1,000) per year for his services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the Governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.
- (4) The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:
 - (a) For parole hearings at which the inmate appears before the board, three (3) members; and
 - (b) For all other business, four (4) members. A decision by any three (3) member panel in a parole hearing shall be final only if it is unanimous; otherwise the case must be reviewed and voted on by not less than four (4) members of the board. Parole decisions for inmates who do not appear before the board shall be reviewed and voted on by not less than four (4) members of the board.
- (5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.
- (6) Upon the expiration of the terms of office of the two (2) full-time board members whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) full-time terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.
- (7) ~~[The Governor shall appoint up to two (2) part-time Parole Board members, to be confirmed by the Senate in accordance with KRS 11.160. The appointment process for these members shall be the same as set forth in subsection (1) of this section, and these members shall possess the same qualifications of a full-time Parole Board member with the additional requirement that they shall have previously served as a full-time Parole Board member. These]~~The part-time members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.

Section 2. The General Assembly confirms Executive Order 98-1593, dated December 3, 1998, relating to the reorganization of the Parole Board to the extent it is not otherwise confirmed by this Act.

HB 89, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.040 is amended to read as follows:

- (1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:
 - (a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;
 - (b) Conduct comprehensive planning to promote the maximum benefits of grants;
 - (c) Develop model criminal justice programs;
 - (d) Disseminate information on criminal justice issues and crime trends;
 - (e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;
 - (f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;
 - (g) Provide technical assistance to all criminal justice agencies;
 - (h) Review and evaluate proposed legislation affecting criminal justice; and
 - (i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.
- (2) Membership of the Criminal Justice Council shall consist of the following:
 - (a) The secretary of the Justice Cabinet or his designee;
 - (b) The director of the Administrative Office of the Courts or his designee;
 - (c) The Attorney General or his designee;
 - (d) Two (2) members of the House of Representatives as designated by the Speaker of the House;
 - (e) Two (2) members of the Senate as designated by the President of the Senate;
 - (f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;
 - (g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;
 - (h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;
 - (i) The public advocate or his designee;
 - (j) The president of the Kentucky Sheriffs' Association;
 - (k) The commissioner of state police or his designee;
 - (l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;
 - (m) The president of the Kentucky Association of Chiefs of Police;
 - (n) A member of the Prosecutors Advisory Council as chosen by the council;
 - (o) The Chief Justice or a justice or judge designated by him;
 - (p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;
 - (q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;
 - (r) One (1) member of the Circuit Clerks' Association;
 - (s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;
 - (t) One (1) District Judge, designated by the Chief Justice;
 - (u) One (1) Circuit Judge, designated by the Chief Justice;

- (v) One (1) Court of Appeals Judge, designated by the Chief Justice;
- (w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders; ~~and~~
- (x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor; and
- (y) The Governor's chief information officer.
- (3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.
- (4) The council shall meet at least once every three (3) months.
- (5) The council may hold additional meetings:
 - (a) On the call of the chairman;
 - (b) At the request of the Governor to the chairman; or
 - (c) At the written request of the members to the chairman, signed by a majority of the members.
- (6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.
- (7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.
- (8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:
 - (a) Uniform Criminal Justice Information System committee;
 - (b) Committee on sentencing; and
 - (c) Penal Code committee.
- (9) The council's administrative functions shall be performed by a full-time executive director appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 2. The General Assembly confirms Executive Order 99-319, dated March 10, 1999, relating to the reorganization of the Criminal Justice Council, to the extent it is not otherwise confirmed by this Act.

HB 433, AN ACT relating to violating graves.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.115 is amended to read as follows:

- (1) A person is guilty of violating graves when he intentionally:
 - (a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or
 - (b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or
 - (c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.
- (2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.
- (3) Violating graves is a ~~Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.~~

The Committee Substitute to **HB 433** is as follows:

HB 433, AN ACT relating to violating graves.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.115 is amended to read as follows:

- (1) A person is guilty of violating graves when he intentionally:
 - (a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or
 - (b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or

- (c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.
- (2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.
- (3) Violating graves is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (4) The court shall order the defendant to restore the cemetery to its pre-damage condition.

The Committee on Agricultural and Small Business reported **HB 385**, with Committee Substitute attached thereto, **HB 456**, and **HB 500**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 385, AN ACT relating to the Tobacco Master Settlement Agreement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

- (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.
 - (2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.
 - (3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.
 - (4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:
 - (a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
 - (b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
 - (c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.
- The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," nine hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."
- (5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.
 - (6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars (\$1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subsection (2) of Section 2 of this Act.
 - (7) "Released claims" means released claims as that term is defined in the master settlement agreement.
 - (8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.
 - (9) "Tobacco product manufacturer" means an entity that after the effective date of this Act directly (and not exclusively through any affiliate):
 - (a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the master settlement agreement) that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);
 - (b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the

manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by Kentucky on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of Kentucky. The Revenue Cabinet shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any tobacco product manufacturer selling cigarettes to consumers within this state (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) after the effective date of this Act shall do one of the following:

(a) Become a participating manufacturer (as that term is defined in section II(jj) of the master settlement agreement) and generally perform its financial obligations under the master settlement agreement; or

(b) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

1. For 2000: \$0.0104712 per unit sold after the effective date of this Act;
2. For each of 2001 and 2002: \$0.0136125 per unit sold;
3. For each of 2003 through 2006: \$0.0167539 per unit sold; and
4. For 2007 and each year thereafter: \$0.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to subsection (1)(b) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(a) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by Kentucky or any releasing party located or residing in Kentucky. Funds shall be released from escrow under this paragraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than Kentucky's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement (as determined pursuant to section IX(i)(2) of the master settlement agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(c) To the extent not released from escrow under paragraph (a) or (b) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (1)(b) of this section shall annually certify to the Attorney General that it is in compliance with this section. The Attorney General may bring a civil action on behalf of Kentucky against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(a) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of subsection (1)(b) or (2) of this section, may impose a civil penalty (to be paid to the general fund of Kentucky) in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(b) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of subsection (1)(b) or (2) of this section, may impose a civil penalty (to be paid to the general fund of Kentucky) in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(c) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within Kentucky

(whether directly or through a distributor, retailer, or similar intermediary) for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

Section 3. Whereas this Act must be in effect during one-half of the year 2000 in order for the Commonwealth to receive full benefit of enacting this Act under the Master Settlement Agreement, an emergency is declared to exist, and this Act takes effect June 30, 2000.

The Committee Substitute to **HB 385** is as follows:

HB 385, AN ACT relating to the Tobacco Master Settlement Agreement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

- (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.
- (2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.
- (3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.
- (4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:
 - (a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
 - (b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
 - (c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," nine hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."
- (5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.
- (6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars (\$1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subsection (2) of Section 2 of this Act.
- (7) "Released claims" means released claims as that term is defined in the master settlement agreement.
- (8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.
- (9) "Tobacco product manufacturer" means an entity that after the effective date of this Act directly (and not exclusively through any affiliate):
 - (a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the master settlement agreement) that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);
 - (b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

- (10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by Kentucky on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of Kentucky. The Revenue Cabinet shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) Any tobacco product manufacturer selling cigarettes to consumers within this state (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) after the effective date of this Act shall do one of the following:

(a) Become a participating manufacturer (as that term is defined in section II(jj) of the master settlement agreement) and generally perform its financial obligations under the master settlement agreement; or

(b) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

1. For 2000: \$0.0104712 per unit sold after the effective date of this Act;
2. For each of 2001 and 2002: \$0.0136125 per unit sold;
3. For each of 2003 through 2006: \$0.0167539 per unit sold; and
4. For 2007 and each year thereafter: \$0.0188482 per unit sold.

- (2) A tobacco product manufacturer that places funds into escrow pursuant to subsection (1)(b) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(a) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by Kentucky or any releasing party located or residing in Kentucky. Funds shall be released from escrow under this paragraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than Kentucky's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement (as determined pursuant to section IX(i)(2) of the master settlement agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(c) To the extent not released from escrow under paragraph (a) or (b) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

- (3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (1)(b) of this section shall annually certify to the Attorney General that it is in compliance with subsections (1)(b) and (2) of this section. The Attorney General may bring a civil action on behalf of Kentucky against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(a) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of subsection (1)(b) or (2) of this section, may impose a civil penalty (to be paid to the general fund of Kentucky) in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(b) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of subsection (1)(b) or (2) of this section, may impose a civil penalty (to be paid to the general fund of Kentucky) in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(c) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within Kentucky (whether directly or through a distributor, retailer, or similar intermediary) for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

Section 3. Whereas this Act must be in effect during one-half of the year 2000 in order for the Commonwealth to receive full benefit of enacting this Act under the Master Settlement Agreement, an emergency is declared to exist, and this Act takes effect June 30, 2000.

HB 456, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall promulgate administrative regulations establishing the height and weight requirements of a basket of tobacco when placed on a warehouse floor for the purpose of sale. In establishing the requirements, the Commissioner shall consider traditional height and weight standards for baskets of tobacco, and shall consider experimental marketing standards that may be applied from time to time.

Section 2. KRS 248.990 is amended to read as follows:

- (1) Any tobacco warehouseman, agent, manager, solicitor, corporation or organization that violates any of the provisions of KRS 248.320 to 248.340 or subsection (3) of KRS 248.350 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), and, if a corporation, it shall forfeit all corporate rights and privileges.
- (2) Any person who violates any of the provisions of KRS 248.400 shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500).
- (3) Any person who violates any of the provisions of KRS 248.370, ~~or 248.390,~~ 248.440, or willfully violates an administrative regulation of the department, or who refuses to pay the fee provided for by KRS 248.290, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than three (3) months, or both.
- (4) Any person who violates any of the provisions of KRS 248.410 or 248.420 shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).
- (5) Any person who fails or refuses to post notices in accordance with subsection (1) of KRS 248.430 shall be fined not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each day of failure or refusal.
- (6) Any person who violates subsection (2) of KRS 248.430 shall be fined five hundred dollars (\$500) for each offense.
- (7) Any person who violates any of the provisions of subsection (1) of KRS 248.450 shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for each offense.
- (8) Any person who violates any of the provisions of subsection (2) of KRS 248.450 shall be fined not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each day of violation.
- (9) Any person who violates KRS 248.610 shall be fined not less than \$100 nor more than \$1,000, or imprisoned in the county jail for not more than one (1) year, or both.
- (10) Any person who violates any of the provisions of subsection (1) or subsection (2) of KRS 248.350 shall for each offense be fined not less than fifteen hundred dollars (\$1,500) nor more than three thousand dollars (\$3,000), or be imprisoned for not less than three (3) months nor more than twelve (12) months, or both.

Section 3. The following KRS section is repealed:

248.390 Maximum height and weight of baskets of tobacco.

HB 500, AN ACT relating to cigarettes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.020 is amended to read as follows:

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, and shall enforce the cigarette provisions of Sections 2 to 10 of this Act, except that the collection of taxes shall be administered by the Revenue Cabinet.
- (2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.
- (3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.

SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 10 of this Act:

- (1) **"Cigarettes" means cigarettes as defined in KRS 138.130;**
- (2) **"Commissioner" means the commissioner of the department of Alcoholic Beverage Control;**

- (3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);
- (4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;
- (5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;
- (6) "Package" means package as is defined in 15 U.S.C. sec. 1333(4); and
- (7) "Person" means person as defined in KRS 446.010.

SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

No person shall:

- (1) Sell, distribute, acquire, hold, own, possess in this Commonwealth; transport for sale or distribution in this Commonwealth; or import or cause to be imported into this Commonwealth for sale or distribution in this Commonwealth:
 - (a) Any cigarettes the package of which:
 - 1. Bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States including, but not limited to, a label stating "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording; or
 - 2. Does not comply with:
 - a. All requirements imposed by or in accordance with federal law regarding warnings, and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States including, but not limited to, the precise warning label specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; and
 - b. All federal trademark and copyright laws;
 - (b) Any cigarettes imported into the United States on or after January, 1, 2000, in violation of 26 U.S.C. 5754 or any other federal law, or implementing federal regulations;
 - (c) Any cigarettes that a person knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; or
 - (d) Any cigarettes for which there has not been submitted to the Secretary of the United States Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the Federal Cigarette Labeling and Advertising Act, U.S.C. sec. 1355a;
- (2) Alter the package of any cigarettes, prior to the sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:
 - (a) Any statement, label, stamp, sticker, or notice described in subsection (1)(a)2.a. of this section; or
 - (b) Any health warning that is not specified in or does not conform with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; or
- (3) Affix any stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 to the package of any cigarettes described in subsection (1) of this section or altered in violation of subsection (2) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

On the first business day of each month, each person licensed to affix the stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 shall file with the commissioner, for all cigarettes imported into the United States to which the person has affixed the stamp required by KRS 138.146 or made other evidence of tax payment as provided in KRS 138.155 in the preceding month:

- (1) A copy of:
 - (a) The permit issued under the Internal Revenue Code, 26 U.S.C. sec. 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and
 - (b) The customs form containing, with respect to the cigarettes, the internal revenue tax information required by the United States Bureau of Alcohol, Tobacco, and Firearms;
- (2) A statement signed by the person under penalty of perjury, identifying the brand and brand styles of all cigarettes, the quantity of each brand style of cigarettes, the supplier of the cigarettes, and the person or persons, if any, to whom the cigarettes have been conveyed for resale. The statement shall be treated as confidential by the commissioner and shall not be subject to public disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884; and
- (3) A statement signed by an officer of the manufacturer or importer under the penalty of perjury certifying that the manufacturer or importer has complied with:
 - (a) The package and health warning and ingredient reporting requirements of the Federal Cigarette Labeling and

Advertising Act, 15 U.S.C. sec. 1333 and 1335a. with respect to the cigarettes; and

- (b) The state's model statute under the master settlement agreement indicating whether the manufacturer is or is not a participating tobacco manufacturer within the meaning of the model state act required under the master settlement agreement relating to participating cigarette manufacturers and cigarette manufacturers placing funds into an escrow account.

SECTION 5. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner may revoke or suspend the license issued in accordance with KRS 138.195 of any licensee and impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes involved or five thousand dollars (\$5,000) upon finding a violation by the licensee of the provisions of Section 3 or 4 of this Act.
- (2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this Commonwealth in violation of the provisions of Section 3 or 4 of this Act shall be treated as contraband under KRS 138.165 and be subject to seizure and forfeiture. Notwithstanding the provisions of KRS 138.165, all cigarettes seized and forfeited shall be destroyed. Cigarettes shall be treated as contraband whether the violation of the provisions of Section 3 or 4 of this Act is knowing or otherwise.

SECTION 6. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

For the purposes of KRS 365.340, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as or is confusingly similar to any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary business channels of trade.

SECTION 7. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

A violation of the provisions of Section 3 or 4 of this Act shall constitute an unlawful trade practice as provided in KRS 365.260 to 365.380 and in addition to any remedies or penalties set forth in Sections 5, 6, and 8 of this Act, shall be subject to any remedies or penalties available for a violation of the provisions of KRS 365.260 to 365.380.

SECTION 8. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

Any person that commits any of the acts prohibited by Section 3 of this Act, either knowing or having reason to know he or she is doing so, or that fails to comply with any of the requirements in Section 4 of this Act is guilty of a Class D felony and, in addition, may be subject to a fine of not more than five thousand dollars (\$5,000).

SECTION 9. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 3 and 4 of this Act shall be enforced by the commissioner, but at the request of the commissioner or the commissioner's duly authorized agent, the State Police and all local police authorities shall enforce the provisions of Sections 3 and 4 of this Act. The Attorney General has concurrent powers with prosecuting attorneys of the Commonwealth to enforce the provisions of Section 3 or 4 of this Act.
- (2) For the purpose of enforcing the provisions of Sections 3 and 4 of this Act, the commissioner and any agency that the commissioner shall have delegated enforcement responsibility under subsection (1) of this section may request information from any state or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of that state.
- (3) In addition to any other remedy provided by law, including enforcement under subsection (1) of this section, any person injured or adversely affected by a violation of Section 3 or 4 of this Act shall have a civil cause of action against the person committing the violation and shall be entitled to injunctive or equitable relief, damages, punitive damages not to exceed three (3) times the amount of actual damages sustained, costs, including reasonable attorneys' fees, or any other relief the court determines to be appropriate.

SECTION 10. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 3 and 4 of this Act shall not apply to:
- (a) Cigarettes allowed to be imported or brought into the United States for personal use; and
- (b) Cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. sec. 1555(b) and any implementing regulations, but the provisions of Sections 3 and 4 of this Act shall apply to any cigarettes that are brought back into the customs territory for resale within the customs territory.
- (2) The penalties provided in Sections 5, 7, 8, and 9 of this Act are in addition to any other penalties imposed under other law.

The Committee Substitute to **HB 500** is as follows:

HB 500, AN ACT relating to cigarettes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.020 is amended to read as follows:

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, and shall enforce the cigarette provisions of Sections 2 to 10 of this Act, except that the collection of taxes shall be administered by the Revenue Cabinet.
- (2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.
- (3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.
- (4) A cigarette unit, under the supervision of the board, shall administer the provisions of Sections 2 to 10 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 10 of this Act:

- (1) "Cigarettes" means cigarettes as defined in KRS 138.130;
- (2) "Commissioner" means the commissioner of the department of Alcoholic Beverage Control;
- (3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);
- (4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;
- (5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;
- (6) "Package" means package as is defined in 15 U.S.C. sec. 1333(4); and
- (7) "Person" means person as defined in KRS 446.010.

SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

No person shall:

- (1) Sell, distribute, acquire, hold, own, possess in this Commonwealth; transport for sale or distribution in this Commonwealth; or import or cause to be imported into this Commonwealth for sale or distribution in this Commonwealth:
 - (a) Any cigarettes the package of which:
 1. Bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States including, but not limited to, a label stating "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording; or
 2. Does not comply with:
 - a. All requirements imposed by or in accordance with federal law regarding warnings, and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States including, but not limited to, the precise warning label specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; and
 - b. All federal trademark and copyright laws;
 - (b) Any cigarettes imported into the United States on or after January, 1, 2000, in violation of 26 U.S.C. sec. 5754 or any other federal law, or implementing federal regulations;
 - (c) Any cigarettes that a person knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; or
 - (d) Any cigarettes for which there has not been submitted to the Secretary of the United States Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1355a;
- (2) Alter the package of any cigarettes, prior to the sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:
 - (a) Any statement, label, stamp, sticker, or notice described in subsection (1)(a)2.a. of this section; or
 - (b) Any health warning that is not specified in or does not conform with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; or
- (3) Affix any stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 to the package of any cigarettes described in subsection (1) of this section or altered in violation of subsection (2) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

On the twentieth business day of each month, each person licensed to affix the stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 shall file with the commissioner, for all cigarettes imported into the United States to which the person has affixed the stamp required by KRS 138.146 or made other evidence of tax payment as provided in KRS 138.155 in the preceding month:

(1) A copy of:

- (a) The permit issued under the Internal Revenue Code, 26 U.S.C. sec. 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and
- (b) The customs form containing, with respect to the cigarettes, the internal revenue tax information required by the United States Bureau of Alcohol, Tobacco, and Firearms;

(2) A statement signed by the person under penalty of perjury, identifying the brand and brand styles of all cigarettes, the quantity of each brand style of cigarettes, the supplier of the cigarettes, and the person or persons, if any, to whom the cigarettes have been conveyed for resale. The statement shall be treated as confidential by the commissioner and shall not be subject to public disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884; and

(3) A statement signed by an officer of the manufacturer or importer under the penalty of perjury certifying that the manufacturer or importer has complied with:

- (a) The package and health warning and ingredient reporting requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333 and 1335a. with respect to the cigarettes; and
- (b) The state's model statute under the master settlement agreement indicating whether the manufacturer is or is not a participating tobacco manufacturer within the meaning of the model state act required under the master settlement agreement relating to participating cigarette manufacturers and cigarette manufacturers placing funds into an escrow account.

SECTION 5. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner may revoke or suspend the license issued in accordance with KRS 138.195 of any licensee and impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes involved or five thousand dollars (\$5,000) upon finding a violation by the licensee of the provisions of Section 3 or 4 of this Act.
- (2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this Commonwealth in violation of the provisions of Section 3 or 4 of this Act shall be treated as contraband under KRS 138.165 and be subject to seizure and forfeiture. Notwithstanding the provisions of KRS 138.165, all cigarettes seized and forfeited shall be destroyed. Cigarettes shall be treated as contraband whether the violation of the provisions of Section 3 or 4 of this Act is knowing or otherwise.

SECTION 6. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

For the purposes of KRS 365.340, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as or is confusingly similar to any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary business channels of trade.

SECTION 7. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

A violation of the provisions of Section 3 or 4 of this Act shall constitute an unlawful trade practice as provided in KRS 365.260 to 365.380 and in addition to any remedies or penalties set forth in Sections 5, 6, and 8 of this Act, shall be subject to any remedies or penalties available for a violation of the provisions of KRS 365.260 to 365.380.

SECTION 8. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

Any person that commits any of the acts prohibited by Section 3 of this Act, either knowing or having reason to know he or she is doing so, or that fails to comply with any of the requirements in Section 4 of this Act is guilty of a Class D felony and, in addition, may be subject to a fine of not more than five thousand dollars (\$5,000).

SECTION 9. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 3 and 4 of this Act shall be enforced by the commissioner, but at the request of the commissioner or the commissioner's duly authorized agent, the State Police and all local police authorities shall enforce the provisions of Sections 3 and 4 of this Act. The Attorney General has concurrent powers with prosecuting attorneys of the Commonwealth to enforce the provisions of Section 3 or 4 of this Act.
- (2) For the purpose of enforcing the provisions of Sections 3 and 4 of this Act, the commissioner and any agency that the commissioner shall have delegated enforcement responsibility under subsection (1) of this section may request information from any state or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of that state.
- (3) In addition to any other remedy provided by law, including enforcement under subsection (1) of this section, any person injured or adversely affected by a violation of Section 3 or 4 of this Act shall have a civil cause of action against

the person committing the violation and shall be entitled to injunctive or equitable relief, damages, punitive damages not to exceed three (3) times the amount of actual damages sustained, costs, including reasonable attorneys' fees, or any other relief the court determines to be appropriate.

SECTION 10. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 3 and 4 of this Act shall not apply to:

(a) Cigarettes allowed to be imported or brought into the United States for personal use; and

(b) Cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. sec. 1555(b) and any implementing regulations, but the provisions of Sections 3 and 4 of this Act shall apply to any cigarettes that are brought back into the customs territory for resale within the customs territory.

(2) The penalties provided in Sections 5, 7, 8, and 9 of this Act are in addition to any other penalties imposed under other law.

Section 11. Whereas the Commonwealth's next fiscal year begins July 1 and the General Assembly finds that it is critical that the provisions of this Act take effect at the beginning of the fiscal year. An emergency is declared to exist and this Act takes effect July 1, 2000.

The Committee Amendment No. 1 Title to **HB 500** is as follows:

By amending the title to read as follows: "AN ACT relating to cigarettes, and declaring an emergency."

Calendar

HB 148, HB 295, HB 157, HB 284, HB 305, HB 373, HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, HCR 23, HCR 24, HB 282, HJR 39, HJR 48, HJR 59, HJR 66, HB 363, HB 424, HB 454, HB 376, HB 404, HB 436, HB 273, HB 463, HB 466, and HB 472 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

HB 43 and **HB 95** delivered to the Senate and signed by the President. Delivered to the Governor on February 3, 2000, at 2:22 p.m.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 238, HB 300, HB 339, HB 427, HJR 42, HCR 44, SB 24, SB 25, SB 26, HB 273, HB 284, HB 463, HB 472, HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, HCR 24, HJR 39, HJR 48, HJR 59, and HJR 66** have been posted for passage in the Orders of the Day for February 4, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 262**

Orders of the Day

HB 328 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **HB 328** be passed.

On the roll call the vote was: **Yeas 73, Nays 17.** (See February 3, 2000 roll call on **HB 328** - Appendix.)

HB 328 was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 328** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 227, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of the Committee Substitute to **HB 227**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 227**. Agreed.

Representative J. Turner moved that **HB 227**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 3, 2000 roll call on **HB 227** - Appendix.)

HB 227, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 227**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 208 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 208** be passed.

On the roll call the vote was: **Yeas 94, Nays 1.** (See February 3, 2000 roll call on **HB 208** - Appendix.)

HB 208 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 208** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 28** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 3, 2000 roll call on **HCR 28** - Appendix.)

HCR 28 was adopted.

Representative Stumbo moved that the vote by which **HCR 28** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 290, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of the Committee Substitute to **HB 290**. Agreed.

Representative Treesh moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 290**. On the roll call the vote was: **Yeas 62, Nays 26.** (See February 3, 2000 roll call on Floor Amendment No. 2 to **HB 290**-Appendix)

Floor Amendment No. 2 to the Committee Substitute to **HB 290** was adopted.

Representative Treesh moved that **HB 290**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 83, Nays 13.** (See February 3, 2000 roll call on **HB 290** - Appendix.)

HB 290, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 290**, by way of Committee Substitute as amended, was passed be

reconsidered and said motion be placed on the table. Agreed.

HB 374 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 374** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 3, 2000 roll call on **HB 374** - Appendix.)

HB 374 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 374** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 10, with Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 10** be passed.

Representative Lindsay stated that the Committee Substitute to **HB 10** had been reported out of Committee and inquired if the Bill could be called before the Body without the Committee Substitute.

The Speaker ruled that the Bill was before the Body and not the Committee Substitute.

On the roll call the vote was: **Yeas 79, Nays 14.** (See February 3, 2000 roll call on **HB 10** - Appendix.)

HB 10 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 10** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 237**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 566, by Representatives Jenkins, Burch, Alexander, Stumbo, and Palmer: AN ACT relating to acupuncture.

HB 567, by Representative Lindsay: AN ACT relating to nonprofit health-care conversion transactions.

HB 568, by Representative Lindsay: AN ACT relating to dog license fees.

HB 569, by Representatives Upchurch, Cornett, Tapp, Ausmus, Ford, Haydon, Damron, Anderson, Allen, Rader, Stewart, Crall, Nunn, Bather, D. D. Butler, Bowling, Draud, Palumbo, L. Belcher, P. Clark, R. Adams, and Gooch: AN ACT relating to operation or use of a motor vehicle.

HB 570, by Representatives Johns, Nunn, Hoffman, Jenkins, Bratcher, Marzian, L. Clark, and Burch: AN ACT relating to administrative authority for the Cabinet for Health Services.

HB 571, by Representatives Geveden and Richards: AN ACT adopting the Uniform Electronic Transactions Act, and making changes incidental thereto.

HB 572, by Representatives Richards, Geveden, Stacy, Nesler, Scott, Colter, and Moberly: AN ACT relating to research, innovation, and technology businesses.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **HB 474**

Labor and Industry: **HB 516, HB 518, HB 528, HB 530, HB 531**

Seniors, Military Affairs, and Public Safety: **HB 141, HB 206, HB 406, HJR 73**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns it does so until 10:00 a.m., February 4, 2000. Agreed.

Representative Stumbo moved that floor privileges be granted to invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

The President granted floor privileges to special guests.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Senator Shaughnessy introduced Christopher Reeves to the Joint Session.

Christopher Reeves briefly addressed the Joint Session.

Representative Stumbo moved that the Joint Session be dissolved. Agreed.

The Speaker resumed the Chair.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 80, HB 83, HB 183, HB 184, and HB 255** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:10 p.m.)

Motions, Petitions, and Communications (Continued)

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that his vote be changed from "nay" to "yea" on **HB 10**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that he be recorded as voting "yea" on **HB 227**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 328**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 374**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that his vote be changed from "nay" to "yea" on **HB 10**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Lindsay moved that he be recorded as voting "nay" on **HB 204**. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **HB 222, HB 108, HB 113, HB 126, HB 70, HB 218, HB 310, HB 301, HB 302, HB 335, HB 355, HB 331, and HB 124**. Agreed.

Representative Yonts moved that **HB 55** be withdrawn. Agreed.

Representative Bruce moved that **HB 24** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 472**, by Representative D. Butler:

On page 3, line 21, after the word "may", by inserting the following: ", after acquiring a license under subsection (39) of Section 1 of this Act,"; and

On page 3, line 23, after the word "and", by inserting the following: ", for retailers licensed under subsection (27) of Section 1 of this Act,"; and

On page 4, after line 4, by adding the following:

"(3) Retailers licensed under subsection (7) of Section 1 of this Act shall:

- (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event;
- (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 10:00 a.m. and 8:00 p.m.; and
- (c) Stamp or otherwise mark the hand of a customer when he or she has reached the sampling limits contained in subsection (2)(d) of this section."

Floor Amendment No. 1 to the Committee Substitute to **HB 305**, by Representative Bratcher:

On page 4, line 27, after "procedures" and before the period ".", by inserting the following: ", except that any public school pupil who is prescribed medication to control assaultive, disruptive, or irrational behavior shall not attend public school on any school day that he or she does not take the medication as prescribed by a physician. A parent or guardian of the pupil shall administer the appropriate medication or may provide the medication to the appropriate school employee for administration in accordance with protocols and guidelines for health procedures adopted by the local board of education or the school"

Floor Amendment No. 4 to **HB 12**, by Representative Jenkins:

On page 2, line 23, by deleting the word "tips".

Floor Amendment No. 5 to **HB 12**, by Representative Jenkins:

On page 2, line 19, after the word "has" by inserting the words "eight (8)" and by inserting brackets around and striking through "two (2)"; and

On page 2, line 20 by deleting "twelve (12)" and removing the brackets and strikethrough from "twenty (20)".

Floor Amendment No. 6 to **HB 12**, by Representative Jenkins:

On page 5, line 19, by deleting the words "and Section 4 of this Act"; and

On page 6, beginning on line 9, by deleting Section 4 in its entirety and by renumbering the remaining sections accordingly; and

On page 7, line 26, after "I" by deleting the comma "," and inserting "and"; and

On page 7, line 26, by deleting the words ", and 4".

Floor Amendment No. 7 to **HB 12**, by Representative Jenkins:

On page 7, line 11, by deleting "an";

On page 7, line 12, by deleting "additional amount in compensatory and punitive damages, as appropriate" and remove left bracket and strikethrough from "in";

On page 7, line 13, remove strikethroughs from line 13 in its entirety;

On page 7, line 14, remove strikethroughs and right bracket from line 14 in its entirety.

Floor Amendment No. 8 to **HB 12**, by Representative Jenkins:

On page 8, line 18, by deleting "two (2) years" and remove brackets and strikethroughs from "six (6) months".

Floor Amendment No. 2 to **HB 472**, by Representative D. Butler:

On page 3, line 21, after the word "may", by inserting the following: ", after acquiring a license under subsection (39) of Section 1 of this Act,"; and

On page 3, line 23, after the word "and", by inserting the following: ", for retailers licensed under subsection (27) of Section 1 of this Act,"; and

On page 4, after line 4, by adding the following:

"(3) Retailers licensed under subsection (7) of Section 1 of this Act shall:

- (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event;
- (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.; and
- (c) Stamp or otherwise mark the hand of a customer when he or she has reached the sampling limits contained in subsection (2)(d) of this section."

Floor Amendment No. 2 to **HB 423**, by Representative Riggs:

On Page 1, line 3, after "city" the first time that it appears, by inserting:

"located in a county containing a city of the first class which is "

Floor Amendment No. 3 to the Committee Substitute to **HB 339**, by Representative Treesh:

On page 1, after line 10, by adding the following:

SECTION 2. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO READ AS FOLLOWS:

No person who is subject to KRS 6.601 to 6.849 shall use any state property for the purpose of soliciting or securing funds for:

- (a) Any individual candidate or slate of candidates for nomination or election to public office;
- (b) Any political party; or
- (c) Any committee formed in support of or controlled by a political party.

Violation of this section is ethical misconduct.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

No person who is subject to this chapter shall use any state property for the purpose of soliciting or securing funds for:

- (a) Any individual candidate or slate of candidates for nomination or election to public office;
- (b) Any political party; or
- (c) Any committee formed in support of or controlled by a political party.

A violation of this section shall be subject to KRS 11A.100(3).

Floor Amendment No. 1 to the Committee Substitute to **HB 449**, by Representative Heleringer:

On page 1, line 19, before "operated" by inserting "owned or";

On page 1, beginning on line 22 and continuing to line 24 by deleting "family member or guardian, or other interested party with standing to act on behalf of the resident" and by inserting "his or her immediate family, if known, and his or her guardian" in lieu thereof;

On page 2, line 5 by deleting "family member or guardian, or" and inserting "immediate family, his or her guardian, or any" in lieu thereof;

On page 2, line 9, before "operated" by inserting "owned or";

On page 2, line 15, before "operated" by inserting "owned or";

On page 2, by deleting lines 18 to 26 in their entirety and inserting the following in lieu thereof:

"(4) When a demonstrated health or safety emergency exists for a facility or a federal action that requires or necessitates a gradual or immediate closure exists for the facility, the cabinet may seek relief from the requirements of this section in

the Circuit Court of the county where the facility is located. In these situations:

- (a) The cabinet shall provide written notice by registered mail to each resident, the resident's immediate family, if known, and his or her guardian, within ten (10) days of the emergency closure; and*
- (b) All interested parties, including the cabinet, the resident, his or her immediate family, his or her guardian, or other interested parties with standing to act on behalf of the resident shall have standing in the proceedings under this subsection."*

On page 2, line 27, after "interested" by deleting "party" and inserting in lieu thereof "parties, as defined by KRS 387.510(12)"; and

On page 3, line 9 after "interested", by deleting "party" and inserting in lieu thereof "parties, as defined by KRS 387.510(12)".

Floor Amendment No. 9 to **HB 12**, by Representative Cave:

On page 8, line 21, by deleting "Fair Pay Act of 2000" and inserting "Lawyer's Full Employment Act" in lieu thereof.

Floor Amendment No. 10 to **HB 12**, by Representative Cave:

On page 8, line 21, by deleting "Fair Pay Act of 2000" and inserting "Increased Government Paperwork and We Don't Want Any Businesses in Kentucky Act" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 23:	Representative Alexander
HB 123:	Representative Hoover
HB 210:	Representatives R. Adams, A. Arnold, Baugh, L. Belcher, Bruce, Crall, Gooch, Hoffman, Sims, Treesh
HB 213:	Representative Nesler
HB 236:	Representative Nesler
HB 268:	Representative Bruce
HB 288:	Representative Nesler
HB 293:	Representative Gooch
HB 295:	Representative Colter
HB 309:	Representative Rader
HB 367:	Representative Cherry
HB 372:	Representative Alexander
HB 377:	Representative Stewart
HB 438:	Representative Nesler
HB 440:	Representative Colter
HB 449:	Representative Bruce
HB 450:	Representative Jordan
HB 490:	Representative Alexander
HB 504:	Representative Nesler
HB 518:	Representative Bratcher
HB 538:	Representatives Colter, Stewart
HB 543:	Representatives A. Arnold, L. Belcher, Crenshaw, Graham, Hoffman, McKee, Westrom, Worthington

HB 554: Representative Johns

HJR 70: Representative Sims

HCR 82: Representative Feeley

The following member filed a request to have his name withdrawn as co-sponsor of a Bill under rules previously suspended:

HB 442: Representative L. Belcher

Announcements

The following meetings were announced:

Education, February 4, 2000, 8:30 a.m., Room 149

Appropriations and Revenue, February 3, 2000, upon adjournment

Budget Review Subcommittee on Transportation, February 4, 2000, 8:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., February 4, 2000.

The motion that the House adjourn until 10:00 a.m., February 4, 2000, was adopted.

FEBRUARY 4, 2000
TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen, D. D. Butler, and Coleman.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 3, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

HB 80, HB 83, HB 183, HB 184, and HB 255 delivered to the Senate and signed by the President. Delivered to the Governor on February 4, 2000, at 9:25 a.m.

Senate Message

Announcing passage of **SB 39, SB 53, SB 68, SJR 17, SJR 25, HB 51, HB 79, HB 91, and HB 93.** (Time: 10:10 a.m.)

Introduction of Bills and Resolutions

HB 573, by Representatives Damron, Webb, Westrom, Palmer, P. Clark, Siler, D. D. Butler, Thompson, Hoover, Buckingham, Fischer, J. Adams, Bruce, Gooch, Wilkey, Vincent, Sims, Napier, Branham, Crenshaw, Stein, C. Belcher, Thomas, Wayne, Jenkins, Bratcher, Stacy, J. Turner, Geveden, Yonts, Cave, Palumbo, and Alexander: AN ACT relating to the Petroleum Storage Tank Environmental Assurance Fund, making an appropriation relating thereto, and declaring an emergency.

HB 574, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 575, by Representatives DeWeese and Barrows: AN ACT relating to supported employment for individuals with significant disabilities and making an appropriation therefor.

HB 576, by Representatives Richards, Stumbo, Callahan, L. Clark, Barrows, and Moberly: AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

HB 577, by Representatives Richards, Stumbo, Callahan, L. Clark, Barrows, and Moberly: AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 578, by Representative Yonts: AN ACT relating to property.

HB 579, by Representative Moberly: AN ACT relating to chemical munitions.

HJR 83, by Representatives Richards, Stumbo, Callahan, L. Clark, Barrows, and Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 84, by Representatives Richards, Stumbo, Callahan, L. Clark, Barrows, and Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 85, by Representatives Richards, Stumbo, Callahan, L. Clark, Barrows, and Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 568**

Appropriations and Revenue: **HB 559**

Education: **HB 572, HCR 82**

Health and Welfare: **HB 564, HB 566, HB 567, HB 570**

Judiciary: **HB 569, SB 92**

Labor and Industry: **HB 560, HB 565**

Local Government: **SB 75**

State Government: **HB 561, HB 562, HB 571, HCR 81**

Transportation: **HB 563**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Local Government: **SB 62**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 237**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Calendar

HB 385, HB 456, HB 500, HB 384, SB 40, SB 34, HB 88, HB 89, HB 433, HB 61, HB 127, HB 131, HB 143, HB 258, HB 309, HB 326, HB 348, HB 444, HB 471, and HB 120 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 236, SB 44, HB 449, HB 157, HB 282, HB 363, HB 373, HB 376, HB 404, HB 436, HB 61, HB 127, HB 348, and HB 471** have been posted for passage in the Orders of the Day for February 7, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 295, HB 305, HB 258, and HB 309**

Orders of the Day

HB 50, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 50** be returned to the Orders of the Day and retain its position. Agreed.

HB 463 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 463** be passed.

On the roll call the vote was: **Yeas 66, Nays 25.** (See February 4, 2000 roll call on **HB 463** - Appendix.)

HB 463 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 463** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50, with Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Riggs moved the adoption of the Committee Substitute to **HB 50**. Agreed.

Representative Riggs moved that **HB 50**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1.** (See February 4, 2000 roll call on **HB 50** - Appendix.)

HB 50, by way of Committee Substitute, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 50**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 423, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Floor Amendment No. 2 to **HB 423**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **HB 423**. Agreed.

Representative Riggs moved that **HB 423**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 1.** (See February 4, 2000 roll call on **HB 423** - Appendix.)

HB 423, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 423**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 42, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HJR 42**. Agreed.

Representative Thomas moved that **HJR 42**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 96, Nays 1.** (See February 4, 2000 roll call on **HJR 42** - Appendix.)

HJR 42 was adopted.

Representative Thomas moved that the vote by which **HJR 42**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 273 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **HB 273** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 4, 2000 roll call on **HB 273** - Appendix.)

HB 273 was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 273** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 284 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved that **HB 284** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 4, 2000 roll call on **HB 284** - Appendix.)

HB 284 was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 284** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to consider **HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, and HCR 24** collectively, with each receiving their individual third reading, and one vote serving for all Resolutions. Agreed.

HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, and HCR 24 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that they be read by title only and placed upon their passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, and HCR 24** be adopted.

On the roll call the vote was: **Yeas 94, Nays 1.** (See February 4, 2000 roll call on **HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, and HCR 24** - Appendix.)

HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, and HCR 24 were adopted.

Representative Stumbo moved that the vote by which **HCR 7, HCR 18, HCR 19, HCR 20, HCR 21, and HCR 24** were adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 23, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Committee Substitute to **HCR 23**. Agreed.

Representative Stumbo moved that **HCR 23**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 93, Nays 1.** (See February 4, 2000 roll call on **HCR 23** - Appendix.)

HCR 23 was adopted.

Representative Stumbo moved that the Committee Amendment No. 1 Title to **HCR 23** be adopted. Agreed; and the Title was agreed to.

Representative Stumbo moved that the vote by which **HCR 23**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 48, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HJR 48** be adopted.

On the roll call the vote was: **Yeas 93, Nays 1.** (See February 4, 2000 roll call on **HJR 48** - Appendix.)

HJR 48 was adopted.

Representative Colter moved that the vote by which **HJR 48**, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 66, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HJR 66** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 4, 2000 roll call on **HJR 66** - Appendix.)

HJR 66 was adopted.

HJR 59, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HJR 59** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 4, 2000 roll call on **HJR 59** - Appendix.)

HJR 59 was adopted.

Representative Colter moved that the vote by which **HJR 59**, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns it does so until 4:00 p.m., February 7, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 580, by Representative Stewart: AN ACT relating to railroad fences.

HB 581, by Representative Stewart: AN ACT relating to railroad crossings.

HB 582, by Representatives Marzian, J. Arnold, DeWeese, and Ausmus: AN ACT relating to professional education concerning human immunodeficiency virus and acquired immunodeficiency syndrome.

HB 583, by Representatives Barrows, Stumbo, Callahan, Richards, and L. Clark: AN ACT relating to proceeds from the Tobacco Master Settlement Agreement, and declaring an emergency.

HB 584, by Representatives Geveden, Adkins, Rasche, and Crall: AN ACT relating to the transient room tax.

HB 585, by Representatives Johns, Palumbo, Jenkins, L. Clark, D. D. Butler, P. Clark, Horlander, Hoffman, Marzian, Nunn, Bratcher, Burch, Bather, Rader, and Webb: AN ACT relating to the operation of a motor vehicle.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

State Government: **HCR 81, HB 57**

Tourism, Development, and Energy: **HB 369**

Motions, Petitions, and Communications (Continued)

Representative Webb moved the adoption of the following **Legislative Citation No. 38.**

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Larry Lee Rogers the loving son of Agnes Bellamy Rogers and the late Hubert Rogers; beloved husband of Angela Faye Relaford Rogers; devoted father of Adrianna and Lauren Elyse Rogers; loving brother of the late Bernice Rogers Virgin; and cherished uncle to several nieces and nephews. A native son of Carter County, this Kentucky Colonel diligently served the interests of the citizens of Elliott County as the Agriculture Extension Agent for twenty years and in the same capacity, he also

served the citizens of Carter County for one year. An active member of the First Baptist Church of Grayson and the Trimble Lodge #145, he also served on the Tourism Commission. Inasmuch as this esteemed gentleman will forever be remembered as a faithful friend, a dedicated church and civic leader and has made a lasting impression on all those fortunate enough to have come into contact with him, the members of this august body solemnly join with Representative Robin Webb in paying tribute to the memory of Larry Lee Rogers and in extending sincere condolences to all those who share in the loss of this most highly-regarded citizen. Done in Frankfort, this fourth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 38 was adopted without objection.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote: Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 218**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HB 423**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on Floor Amendment No. 1 to **HB 331**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "nay" on **HB 463**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 88**, by Representative Ford:

On page 1, line 4, after "KRS 11.160.", insert the following language:

"Each of the two (2) part-time members shall be from a different political party."

Floor Amendment No. 1 to **HB 61**, by Representative McKee:

On Page 6, after line 5, by inserting:

"(5) Nothing in this chapter shall prohibit a county or city from entering into an agreement with a school board to perform road work or provide personnel, materials, or equipment for the performance of road work on school premises, but this shall not be construed to require or obligate a county or city to provide such work, personnel, materials, or equipment."

Floor Amendment No. 3 to the Committee Substitute to **HB 188**, by Representative Yonts:

On page 1, line 2, by placing "**(1)**" before the first word on line 2; and

On page 1, after line 19, by adding the following subsection:

"(2) If an insurance carrier, self-insurance group, or third party administrator for a self-insured employer or group is assessed fines or attorney fees by the commissioner or has a final judgment issued for violations of subsection (1) of this section or KRS 304.12-230, it shall not be a basis for the insurance carrier, self-insurance group, or third party administrator for a self-insured employer or group to increase workers' compensation insurance premiums."

Floor Amendment No. 4 to the Committee Substitute to **HB 188**, by Representative Yonts:

On page 1, line 2, by placing "**(1)**" before the first word on line 2; by deleting lines 10 through 19 in their entirety; and after line 9, by adding the following subsection:

"(2) A worker shall have the same right as any other Kentucky citizen to bring an action in Circuit Court for violations of KRS 304.12-230, the Kentucky Unfair Claims Settlement Practices Act."

Floor Amendment No. 1 to the Committee Substitute to **HB 148**, by Representative Damron:

On page 2, line 13, by deleting "**one-hundred twenty (120)**" and inserting "**two hundred (200)**" in lieu thereof;

On page 2, line 16, insert "at least" before "one";

One page 2, by inserting the following between lines 26 and 27:

"(3) Each assisted living community shall comply with applicable building and life safety codes."

On page 4, line 15, by deleting "one thousand dollars (\$1,000)" and inserting "one thousand six hundred dollars (\$1,600). The office shall submit to the Legislative Research Commission, by June 30 of each year, a breakdown of fees assessed and costs incurred for conducting certification reviews";

On page 4, line 22, by deleting "Regulations" and inserting "Regulation" in lieu thereof;

On page 8, by inserting between lines 15 and 16, the following:

"(3) Any assisted living community that was open or under construction on or before the effective date of this Act shall be exempt from the requirement that each living unit shall be at least two hundred (200) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement."

Floor Amendment No. 2 to the Committee Substitute to **HB 148**, by Representative Damron:

On page 2, line 13, by deleting "one-hundred twenty (120)" and inserting "two hundred (200)" in lieu thereof;

On page 2, line 16, insert "at least" before "one";

One page 2, by inserting the following between lines 26 and 27:

"(3) Each assisted living community shall comply with applicable building and life safety codes."

On page 4, line 15, by deleting "one thousand dollars (\$1,000)" and inserting "one thousand six hundred dollars (\$1,600). The office shall submit to the Legislative Research Commission, by June 30 of each year, a breakdown of fees assessed and costs incurred for conducting certification reviews";

On page 4, line 22, by deleting "Regulations" and inserting "Regulation" in lieu thereof;

On page 6, line 8 by inserting ", which shall include information provided by the office regarding options for alternative living arrangements upon the client moving out" after "laws";

On page 6, by inserting the following between lines 8 and 9:

"(9) Provisions by which, if a client notifies the assisted living community in writing of impending move-out due to client nonpayment, the assisted living community shall share information provided by the office regarding options for alternative living arrangements upon the client moving out;"

On page 6, line 9, by deleting "(9)" and inserting "(10)";

On page 6, line 10, by deleting "(10)" and inserting "(11)";

On page 6, line 13, by deleting "(11)" and inserting "(12)";

On page 6, line 14, by deleting "(12)" and inserting "(13)";

On page 6, line 16, by deleting "(13)" and inserting "(14)".

On page 8, by inserting between lines 15 and 16, the following:

"(3) Any assisted living community that was open or under construction on or before the effective date of this Act shall be exempt from the requirement that each living unit shall be at least two hundred (200) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement."

Floor Amendment No. 3 to the Committee Substitute to **HB 148**, by Representative Burch:

On page 3, by inserting the following between lines 16 and 17:

"(4) Each assisted living community shall assist each client upon a move-out notice to secure appropriate living arrangements. Each assisted living community shall share information provided from the office regarding options for alternative living arrangements at the time a move-out notice is given to the client. No client shall be required to move out of an assisted living community until appropriate living arrangements have been made."

On page 6, by inserting the following between lines 8 and 9:

"(9) Provisions for assuring that any client that has received a move-out notice has appropriate living arrangements prior to being required to move out of the assisted living community;"

On page 6, line 9, by deleting "(9)" and inserting "(10)";

On page 6, line 10, by deleting "(10)" and inserting "(11)";

On page 6, line 13, by deleting "(11)" and inserting "(12)";

On page 6, line 14, by deleting "(12)" and inserting "(13)";

On page 6, line 16, by deleting "(13)" and inserting "(14)".

Floor Amendment No. 3 to **HB 472**, by Representative Stumbo:

On Page 4, after line 4, by inserting:

"Section 3. KRS 243.070 is amended to read as follows:

The city legislative body of any city or the fiscal court of any county in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. The licenses may only be issued by the city or county administrator, and the fee shall not exceed the following:

- (1) Distilled spirit licenses as set forth in KRS 243.030:
 - (a) Distiller's license, per annum \$500.00
 - (b) Rectifier's license, per annum \$3,000.00
 - (c) Blender's license, per annum \$3,000.00
 - (d) Wholesaler's distilled spirits and wine license, per annum \$3,000.00
 - (e) Distilled spirits and wine retail package license, per annum:
 1. In counties containing cities of the first class \$1,200.00
 2. In counties containing cities of the second class \$1,000.00
 3. In counties containing cities of the third class \$800.00
 4. In counties containing cities of the fourth class \$600.00
 5. In all other counties \$400.00
- (2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
 - (a) In counties containing cities of the first class \$1,600.00
 - (b) In counties containing cities of the second class \$1,000.00
 - (c) In counties containing cities of the third class \$800.00
 - (d) In counties containing cities of the fourth class \$600.00
- (3) Distilled spirits and wine special temporary liquor license, per event:
 - (a) In counties containing cities of the first class \$266.66
 - (b) In counties containing cities of the second class \$166.66
 - (c) In counties containing cities of the third class \$133.33
 - (d) In counties containing cities of the fourth class \$100.00
- (4) Special temporary wine license, per event \$50.00
- (5) Distilled spirits and wine special temporary auction license, per event \$200.00
- (6) Special private club license, per annum \$300.00
- (7) Distilled spirits and wine special Sunday retail drink license, per annum \$300.00
- (8) Extended hours supplemental license, per annum \$2,000.00
- (9) Nonresident special agent or solicitor's license, per annum \$40.00
- (10) Restaurant wine license, per annum:
 - (a) New applicants \$600.00
 - (b) Applicants for renewal \$400.00
- (11) Caterer's license, per annum \$800.00
- (12) Riverboat license, per annum \$1,200.00
- (13) Horse race track license, per annum \$2,000.00
- (14) Convention center or convention hotel complex license, per annum \$2,000.00
- (15) Bottling house distilled spirits license or wine storage license, per annum \$1,000.00

- (16) Souvenir retail liquor license, per annum \$1,000.00
- (17) Malt beverage licenses as follows:
- (a) Brewer's license, per annum \$500.00
 - (b) Microbrewery license, per annum \$500.00
 - (c) Malt beverage distributor's license, per annum \$400.00
 - (d) Retail malt beverage license, per annum \$200.00
 - (e) Special temporary retail malt beverage license, per event \$25.00
 - (f) Malt beverage brew-on-premises license, per annum \$100.00

Section 4. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS Chapter 242 and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city or the county is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each ~~city~~ budget period at ~~a~~a ~~such~~ percentage rate as shall be reasonably estimated to fully reimburse the local government~~city~~ for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city or county. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against ~~a~~a ~~such~~ fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 210:** Representative McKee
- HB 268:** Representative Cherry
- HB 377:** Representative Palumbo
- HB 437:** Representative L. Belcher

The following members filed requests to have their names withdrawn as co-sponsors of Bills under rules previously suspended:

- HB 12:** Representatives C. Belcher, Colter, Palumbo, Sims
- HB 438:** Representative Buckingham
- HB 569:** Representative Draud

Announcements

The following meeting was announced:

Labor and Industry, February 9, 2000, 8:00 a.m.

The following meeting was cancelled:

Appropriations and Revenue, February 4, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., February 7, 2000.

The motion that the House adjourn until 4:00 p.m., February 7, 2000, was adopted.

FEBRUARY 7, 2000
TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative T. Turner.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 4, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 586, by Representatives Anderson, Fischer, and Cornett: AN ACT relating to circuit clerks and declaring an emergency.

HB 587, by Representatives Anderson, Fischer, and Cornett: AN ACT relating to clerks of the Circuit Court.

HB 588, by Representatives Palumbo, Bowling, Marzian, Jenkins, Nesler, Richards, Nunn, Johns, Weaver, Tapp, Palmer, Buckingham, Upchurch, Draud, Callahan, Damron, C. Belcher, Haydon, Cornett, L. Clark, Moberly, Lee, R. Adams, Rader, Alexander, Geveden, Walton, Feeley, Gooch, Cherry, DeWeese, and Stewart: AN ACT relating to economic development.

HB 589, by Representatives Gray, Polston, Bather, J. Adams, and Ausmus: AN ACT relating to principles of ethical behavior in public schools.

HB 590, by Representative Ratliff: AN ACT relating to hazardous duty retirement.

HB 591, by Representative Ratliff: AN ACT relating to economic assistance to local governments.

HB 592, by Representative Burch: AN ACT relating to acquired immunodeficiency syndrome and making an appropriation therefor.

HJR 86, by Representative Ballard: A JOINT RESOLUTION naming the veterans' home in Hazard, Kentucky in Perry County "The Paul E. Patton Veterans' Home".

HR 87, by Representative Branham: A RESOLUTION memorializing Effie Waller Smith.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 576, HB 577, HB 583, HJR 83, HJR 84, HJR 85**

Education: **SB 53**

Health and Welfare: **HB 582**

Judiciary: **HB 574, HB 578, HB 580, HB 581**

Licensing and Occupations: **SB 39**

Local Government: **HB 584**

Natural Resources and Environment: **HB 573, HB 579**

State Government: **HB 575, SB 68**

Transportation: **HB 585, SJR 17, SJR 25**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 59, HB 116, HB 210, HB 259, HB 329, HB 367**

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 148, HB 424, HB 466, HB 89, HB 131, HB 143, HB 326, HB 384, HB 433, HB 444, and HB 237** have been posted for passage in the Orders of the Day for February 8, 2000.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 51, HB 79, HB 91, and HB 93** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:30 p.m.)

Orders of the Day

HB 300, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 300**. Agreed.

Representative Damron moved that **HB 300**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 3**. (See February 7, 2000 roll call on **HB 300** - Appendix.)

HB 300, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 300**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 44 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HCR 44** be adopted.

On the roll call the vote was: **Yeas 80, Nays 12**. (See February 7, 2000 roll call on **HCR 44** - Appendix.)

HCR 44 was adopted.

Representative Coleman moved that the vote by which **HCR 44** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 24 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 24** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 7, 2000 roll call on **SB 24** - Appendix.)

SB 24 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 24** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 449, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 449**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 449**. Agreed.

Representative Heleringer moved that **HB 449**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See February 7, 2000 roll call on **HB 449** - Appendix.)

HB 449, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 449**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 157, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 157** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 7, 2000 roll call on **HB 157** - Appendix.)

HB 157 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 157** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of the Committee Substitute to **HB 282**. Agreed.

Representative Miller moved that **HB 282**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 7, 2000 roll call on **HB 282** - Appendix.)

HB 282, by way of Committee Substitute, passed.

Representative Miller moved the adoption of the Committee Amendment No. 1 Title to the Committee Substitute to **HB 282**. Agreed; and the Title was agreed to.

Representative Miller moved that the vote by which **HB 282**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 373, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved the adoption of the Committee Substitute to **HB 373**. Agreed.

Representative Colter moved that **HB 373**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 7, 2000 roll call on **HB 373** - Appendix.)

HB 373, by way of Committee Substitute, was passed and the title agreed to.

Representative Colter moved that the vote by which **HB 373**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 127 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HB 127** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 7, 2000 roll call on **HB 127** - Appendix.)

HB 127 was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 127** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 348 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Upchurch moved that **HB 348** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 7, 2000 roll call on **HB 348** - Appendix.)

HB 348 was passed and the title agreed to.

Representative Upchurch moved that the vote by which **HB 348** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 471** be passed.

On the roll call the vote was: **Yeas 90, Nays 0.** (See February 7, 2000 roll call on **HB 471** - Appendix.)

HB 471 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 471** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 295.** Agreed.

Representative Stumbo moved that **HB 5** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the when the House adjourns it does so until 2:00 p.m., February 8, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 593, by Representative Stumbo: AN ACT relating to Tobacco Master Settlement Agreement compliance.

HB 594, by Representative Stumbo: AN ACT relating to reorganization.

HB 595, by Representatives Bruce and Gooch: AN ACT relating to insurance.

HB 596, by Representative R. Adams: AN ACT relating to Kentucky Horse Council license plates.

HB 597, by Representatives Marzian, Johns, D. D. Butler, and Vincent: AN ACT relating to retirement.

HB 598, by Representative Marzian: AN ACT relating to health insurance.

HB 599, by Representatives Childers and Cave: AN ACT relating to mining reclamation.

HB 600, by Representative Ratliff: AN ACT relating to coal severance tax and declaring an emergency.

HB 601, by Representatives Marzian, Burch, and Stein: AN ACT relating to the repeal of requirements for the sale and

disposal of hypodermic syringes and needles.

HB 602, by Representatives Barrows, Heleringer, Branham, Wilkey, Webb, Yonts, Vincent, and Wayne: AN ACT relating to claims.

HB 603, by Representative Wayne: AN ACT relating to the energy assistance trust fund.

HB 604, by Representative Riggs: AN ACT changing the classification of the City of Jeffersontown, in Jefferson County.

HB 605, by Representative Barrows: AN ACT relating to telecommunications.

HB 606, by Representatives Haydon, Siler, and L. Clark: AN ACT relating to the construction industry.

HB 607, by Representatives Gray, Burch, Polston, McKee, Cherry, and J. Arnold: AN ACT relating to private property.

HCR 88, by Representatives Treesh, Moberly, and Rasche: A CONCURRENT RESOLUTION directing a study of the issues of the adequate preparation of elementary and secondary school students for promotion to higher grades, the establishment of appropriate educational criteria for entrance into higher grades, and the remediation rates of students entering postsecondary educational institutions.

HR 89, by Representative Barrows: A RESOLUTION in loving memory of Angela "Angie" Renae Darneal-Brown.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 8, HB 47, HB 410**

Natural Resources and Environment: **HJR 70, SCR 16**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 507**

Tourism, Development, and Energy: **HB 308**

Local Government: **HB 539, HB 189, HB 522, HB 524**

Motions, Petitions, and Communications (Continued)

Representative Treesh moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Treesh moved the adoption of the following **HR 77**:

HR 77, A RESOLUTION condemning the recent remarks of Craig Kilborn, host of the Late, Late Show on the CBS television network.

WHEREAS, this body has specifically noted, with repugnance tempered with sadness, the recent shallow remarks of Craig Kilborn, host of the Late, Late Show on the CBS television network in reference to the powerful tornado that tore through Owensboro, Kentucky, on Monday, January 3, 2000, leaving a path of devastation that affected many Kentucky families; this terrible tragedy demolished buildings and homes, leaving many families with only the clothes on their backs and shattered memories; and

WHEREAS, Craig Kilborn had a total lack of compassion for the tornado victims and lack of respect for the Commonwealth of Kentucky with his comments about Owensboro residents getting brand new trailer houses and renaming Kentucky "Ken-sucky"; and

WHEREAS, Craig Kilborn's comments were inappropriate, disrespectful, and unacceptable criticisms that have not only resulted in hurting the victims of this tragedy but have also cast a negative cloud over his employer, CBS;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky is deeply aggrieved at the lack of compassion shown by Craig Kilborn's remarks about the tornado disaster in Owensboro, Kentucky.

Section 2. The House of Representatives of the Commonwealth of Kentucky believes that Craig Kilborn owes an apology to the citizens of Kentucky for his recent tasteless comments on national television.

Section 1. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Mel Karmazin, President, CBS Corporation, 51 West 52nd Street, New York, New York 10019.

There being no objection **HR 77** was adopted.

Representative Treesh moved the adoption of the following **HR 69**:

HR 69, A RESOLUTION adjourning the House of Representatives upon the occasion of the birthday of President Ronald Reagan.

WHEREAS, the Office of the President of the United States is the most noble and honorable office any politician can hold, and it places rigorous demands upon the officeholder; and

WHEREAS, Ronald Reagan was elected to two full terms as President of the United States, and during which time he demonstrated insight, vision, and compassion, and he has been an inspiration not only to Americans, but to people throughout the world that hunger for freedom and justice; his accomplishments are beyond measure and will have lasting impact on this great nation; and

WHEREAS, when we reflect upon the contributions President Ronald Reagan tirelessly gave to the citizens of this great nation during his terms of office, we are reminded that ethics and integrity played a large part toward his achievement as an outstanding President, and his accomplishments during his political career should serve as an example for those who succeed him; and

WHEREAS, on Sunday, February 6, 2000, President Ronald Reagan will be celebrating his eighty-ninth birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body proudly hails and congratulates President Ronald Reagan upon the occasion of his eighty-ninth birthday on February 6, 2000.

Section 2. We would also like to take this opportunity to extend our sympathy to the family of President Ronald Reagan during these dark hours of his illness. Our prayers and good wishes go with them daily.

Section 3. When the House of Representatives adjourns this day, it does so in honor of the occasion of President Ronald Reagan's eighty-ninth birthday.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Ronald Reagan, 2125 Avenue of the Stars, 34th Floor, Los Angeles, California 90067.

There being no objection **HR 69** was adopted. (See February 7, 2000 roll call to show co-sponsors on **HR 69** - Appendix.)

Representative Barrows moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 89**:

HR 89, A RESOLUTION in loving memory of Angela "Angie" Renae Darneal-Brown.

WHEREAS, Angela "Angie" Renae Darneal-Brown was born on April 30, 1967, in Woodford County, Kentucky, to Drucilla E. Darneal of Midway, Kentucky, and Roland Anthony of Lexington, Kentucky; and

WHEREAS, Angela "Angie" Renae Darneal-Brown was the devoted wife of Ira Henry Brown, the loving mother of Jahon Elaine Brown, the beloved granddaughter of Juanita C. Darneal, the admired daughter-in-law of Carolyn Brown and Ronald Baltimore, and the respected sister-in-law of Brenda Brown, Shekeria Wallace, and LaDonna Baltimore; and

WHEREAS, Angela "Angie" Renae Darneal-Brown was the treasured niece of Alfrena C. Bates, Billie Rothel Martin, Beverly Darneal, Mary Anthony, Betty Anthony, Jeanette Owsley, Hildred Thomas, and Herbert Christy; and

WHEREAS, Angela "Angie" Renae Darneal-Brown was a dear relative of many nieces, nephews, and cousins and the special cousin of Nicole Lambus; and

WHEREAS, Angela "Angie" Renae Darneal-Brown could be described simply as a good soldier who has fought a good fight, finished her course, and kept her faith; and

WHEREAS, Angela "Angie" Renae Darneal-Brown was a loving, compassionate, and giving soul; and

WHEREAS, Angela "Angie" Renae Darneal-Brown was a dedicated Christian, having been baptized on January 15, 1984, at the Pilgrim Baptist Church in Midway, Kentucky, where she remained an active and contributing member until her death; and

WHEREAS, Angela "Angie" Renae Darneal-Brown peacefully departed these earthly confines into the everlasting arms of her Lord on January 16, 2000; and

WHEREAS, the passing of Angela "Angie" Renae Darneal-Brown will leave a void in the hearts of relatives and friends that will be difficult to fill;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow and extends its most heartfelt

sympathy and condolences to the relatives of Angela "Angie" Renae Darneal-Brown.

Section 2. That when the House of Representatives adjourns this day, it does so in memory, honor, and tribute to Angela "Angie" Renae Darneal-Brown.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this House Resolution to Ira Henry Brown, 252 West Stephens Street, Midway, KY 40347; Drucilla E. Darneal, 252 West Stephens Street, Midway, KY 40347; and Jahon Elaine Brown, 252 West Stephens Street, Midway, KY 40347.

There being no objection **HR 89** was adopted.

Representative Crimm moved that **HB 395** be withdrawn. Agreed.

Representative Gooch moved that **HB 375** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 377**, by Representative Bather:

On page 1, line 8 after "(2)" and before "Any" by inserting "(a)";

On page 1, line 10 after "establish" by placing brackets around and striking through ", within any" and by deleting "state, the District of";

On page 1, line 11 by deleting "Columbia, or a territory of the United States";

On page 1, line 13 after "exercised" and before the period by inserting ":" and by inserting the following:

"1. Within any county in which its principal office or an existing branch is located; and

2. Within any county contiguous to the county in which its principal office is located, but a branch may not be established in more than four (4) contiguous counties";

On page 1, line 13 before "Before" by inserting "(b)";

On page 1, line 18 after the first "." and before "The" by inserting "(c)";

On page 1, line 20 before "(a)" by adding "1." and by placing brackets around and striking through "(a)";

On page 2, line 2 before "(b)" by adding "2." and by placing brackets around and striking through "(b)";

On page 2, lines 18 to 20 by removing brackets and strike through; and

From page 3, line 5 through page 14 line 24 by deleting Sections 2 through 6 in their entirety.

Floor Amendment No. 1 to **HB 325**, by Representative Treesh:

On page 3, line 2, delete "All law enforcement agencies shall request all drivers" and insert in lieu thereof "A law enforcement agency may request a driver"; and

On page 5, line 18, delete "All drivers" and insert in lieu thereof "A driver"; and

On page 5, line 19, delete "shall" and insert in lieu thereof "may"; and

On page 5, line 25, delete "shall" and insert in lieu thereof "may"; and

On page 7, line 14, delete "shall also request all drivers" and insert in lieu thereof "may request a driver"; and

On page 9, line 3, delete "All law enforcement agencies shall request all drivers" and insert in lieu thereof "A law enforcement agency may request a driver".

Floor Amendment No. 4 to the Committee Substitute to **HB 148**, by Representative Burch:

On page 3, by inserting the following between lines 16 and 17:

"(4) Each assisted living community shall assist each client upon a move-out notice to find appropriate living arrangements. Each assisted living community shall share information provided from the office regarding options for alternative living arrangements at the time a move-out notice is given to the client."

On page 6, by inserting the following between lines 8 and 9:

"(9) Provisions for assisting any client that has received a move-out notice to find appropriate living arrangements prior to the actual move-out date."

On page 6, line 9, by deleting "(9)" and inserting "(10)";
 On page 6, line 10, by deleting "(10)" and inserting "(11)";
 On page 6, line 13, by deleting "(11)" and inserting "(12)";
 On page 6, line 14, by deleting "(12)" and inserting "(13)";
 On page 6, line 16, by deleting "(13)" and inserting "(14)".

Floor Amendment No. 1 to **HB 157**, by Representative Cox:

On page 10, after line 3, by adding the following new section:

"Section 7. KRS 158.195 is amended to read as follows:

Local boards may allow any teacher or administrator in a public school district of the Commonwealth to read or post in a public school building, classroom, or event any excerpts or portions of: the national motto; the national anthem; the pledge of allegiance; ~~[the preamble to the Kentucky Constitution];~~ the Declaration of Independence; the Mayflower Compact; the writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States; United States Supreme Court decisions; and acts of the United States Congress including the published text of the Congressional Record. There shall be no content-based censorship of American history or heritage in the Commonwealth based on religious references in these writings, documents, and records. **Local school boards shall provide for the posting, in every public school building, of the preamble to the Kentucky Constitution.**"

Floor Amendment No. 2 to **HB 377**, by Representative Bather:

On page 1, line 8 after "(2)" and before "Any" by inserting "(a)";

On page 1, line 10 after "establish" by placing brackets around and striking through ", within any" and by deleting "state, the District of";

On page 1, line 11 by deleting "Columbia, or a territory of the United States";

On page 1, line 13 after "exercised" and before the period by inserting ";" and by inserting the following:

- "1. Within any county in which its principal office or an existing branch is located;**
- 2. Within any county contiguous to the county in which its principal office is located, but a branch may not be established in more than four (4) contiguous counties; or**
- 3. Within seventy-five (75) miles of the county in which its principal office is located";**

On page 1, line 13 before "Before" by inserting "(b)";

On page 1, line 18 after the first "." and before "The" by inserting "(c)";

On page 1, line 20 before "(a)" by adding "1." and by placing brackets around and striking through "(a)";

On page 2, line 2 before "(b)" by adding "2." and by placing brackets around and striking through "(b)";

On page 2, lines 18 to 20 by removing brackets and strike through; and

From page 3, line 5 through page 14 line 24 by deleting Sections 2 through 6 in their entirety.

Floor Amendment No. 1 to **SB 40**, by Representative Riggs:

On page 1, line 4, by deleting "directly or indirectly"; and

On page 3, line 25, by deleting "financial" and inserting in lieu thereof "professional" and by deleting "a surety bond executed" and inserting in lieu thereof "an errors and omissions policy issued"; and

On page 3, line 27, by deleting "subject to lawful" and inserting in lieu thereof "available for"; and

On page 4, line 1, by deleting "levy of execution by"; and

On page 4, line 4, by deleting "and"; and

On page 4, line 5, by deleting the period and inserting in lieu thereof "; and"; and

On page 4, after line 5 by inserting:

"(g) Nothing in this section shall authorize the commissioner to require organizational documents as a condition for renewal."

On page 5, line 14, by deleting "change in its ownership, control, or other"; and

On page 5, line 16, by deleting the comma and inserting ";" in lieu thereof and by deleting the remainder of the line and by deleting line 17 in its entirety; and

On page 6, line 8, by deleting "shall" and inserting in lieu thereof "may"; and

On page 6, line 18, after "if" by inserting ", after an administrative hearing,"; and

On page 6, by deleting lines 22 to 25 in their entirety; and

On page 6, line 26, by deleting "(c)" and inserting in lieu thereof "(b)"; and

On page 7, line 2, by deleting "(d) At any time fails" and by inserting in lieu thereof "(c) Fails"; and

On page 8, lines 2 and 3 by deleting "The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute between the insurer and the administrator." and

On page 9, lines 15, 16, and 17 by deleting "At least one (1) review shall be an on-site audit of the operations of the administrator.".

Floor Amendment No. 1 to the Committee Substitute to **HB 363**, by Representative Marzian:

On page 1, at lines 2 and 3, by removing the brackets and strikethroughs therein; and

On page 1, at lines 6 through 17, by removing the brackets and strikethroughs therein; and

On page 1, at line 7, after "than", by inserting "thirty-five percent (35%)" and by bracketing and striking through the words "forty percent (40%)"; and

On page 1, at line 9, after "receive", by inserting "thirty-five percent (35%)" and by bracketing and striking through the words "forty percent (40%)"; and

On page 1, at line 13, after "less than", by inserting "thirty-five percent (35%)" and by bracketing and striking through the words "forty percent (40%)"; and

On page 1, at lines 20 through 25, and on page 2, at line 1, by removing the brackets and strikethroughs therein; and

On page 2, line 2, by deleting "(2)" and by removing the brackets and strikethroughs therein; and

On page 2, after line 6, by deleting the remainder of the sections of the bill.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution under rules previously suspended:

HB 1: Representative Bather
HB 144: Representatives P. Clark, Coleman
HB 320: Representative Stewart
HB 392: Representative Marcotte
HB 408: Representative Stewart
HB 439: Representative A. Arnold
HB 449: Representatives Coleman, Horlander
HB 525: Representative Crimm
HB 554: Representatives Horlander, Riggs
HB 598: Representatives Miller, Riggs
HR 86: Representative Bruce

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 8, 2000.

The motion that the House adjourn until 2:00 p.m., February 8, 2000, was adopted by voice vote.

FEBRUARY 8, 2000
TWENTY-FORTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Minister, Lane Hassloch, Sadieville Christian Church, Sadieville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 7, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 608, by Representative Palmer: AN ACT relating to health insurance.

HB 609, by Representative Marcotte: AN ACT changing the classification of the City of Sparta, in Gallatin County.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 593**

Appropriations and Revenue: **HB 591, HB 600**

Banking and Insurance: **HB 595, HB 598**

Economic Development: **HB 588**

Education: **HB 589, HCR 88**

Health and Welfare: **HB 592, HB 601**

Judiciary: **HB 586, HB 587, HB 602, HB 607**

Labor and Industry: **HB 606**

Local Government: **HB 590, HB 604**

Natural Resources and Environment: **HB 599**

Seniors, Military Affairs, and Public Safety: **HJR 86**

State Government: **HB 594, HB 597, HB 603, HB 605**

Transportation: **HB 596**

House Floor: **HR 87**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 345, HB 567, HB 566**

Appropriations and Revenue: **HB 543, HB 541**

Report of Committees

The Committee on Tourism, Development, and Energy reported **HB 346**, with Committee Amendment attached thereto, **HB 417**, and **HB 477**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 346, AN ACT relating to utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.160 is amended to read as follows:

- (1) Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.
- (2) No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.
- (3) *The provisions of this section do not require disclosure or publication of any records that would otherwise be entitled to be excluded from the application of KRS 61.870 to 61.884 under the provisions of KRS 61.878 (1)(c)1.*

The Committee Amendment No. 1 to **HB 346** is as follows:

On line 11, by after the second "*of*" by inserting the following "*a provision of a special contract that contains rates and conditions of service not filed in a utility's general schedule if such provision*"; and

On line 12, by deleting "*any*"; and

On line 12, by deleting "*records that*".

HB 417, AN ACT relating to cellular antenna towers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.665 is amended to read as follows:

- (1) The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of a uniform application, provided under KRS 100.985(5), for a certificate of convenience and necessity to construct cellular antenna towers, and the procedures to carry out the commission's responsibilities under KRS 100.987.
- (2) *The commission, in establishing the public notice requirements of a uniform application as provided for in subsection (1) of this section, shall distinguish between areas of low and high population densities. At a minimum, when the site of the proposed cellular antenna tower is outside of an incorporated city, the commission shall require that every person who owns property contiguous to the property where the proposed cellular antenna tower will be located receives notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the application. The provisions of this subsection shall not apply to unincorporated areas within a county containing a city of the first class.*

HB 477, AN ACT relating to the provision of telecommunication services by municipalities and municipal utilities.

WHEREAS, the legislature finds and determines that:

- (1) The United States Congress has passed sweeping legislation, known as the Telecommunications Act of 1996, that has opened the local exchange telecommunications market to competition;
- (2) The Act requires, among other things, that incumbent local exchange carriers negotiate interconnection agreements with new competitive carriers covering the resale of retail services, the purchase of network facilities, and the interconnection of facilities;
- (3) States have authority under the Act to arbitrate and approve interconnection agreements between carriers and to create a universal service fund supported by all competing carriers to advance and support universal service;
- (4) The Kentucky Public Service Commission is the administrative agency created by the legislature to regulate telecommunications services in Kentucky;
- (5) Municipalities and municipal utilities have begun to enter into the field of providing telecommunications services to the public for compensation;

(6) The provision of services by municipalities and municipal utilities creates a new participant into the increasingly competitive but regulated industry;

(7) Any competitive entry into the telecommunications market by municipalities or municipal utilities, which may create benefits for the citizens of the Commonwealth, correspondingly creates risks for existing providers of telecommunications services; and

(8) A statutory framework for the regulation of entry into the telecommunications market and provision of telecommunications services by municipalities and municipal utilities is in the best interest of the citizens of the Commonwealth;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

- (1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies, and business trusts;
- (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;
- (3) "Utility" means any person except a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with:
 - (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;
 - (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;
 - (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;
 - (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation; *or*
 - ~~(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or~~
 - ~~(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;~~
- (4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;
- (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;
- (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;
- (7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;
- (8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;
- (9) "Generation and transmission cooperative", or "G&T", means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;
- (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;
- (11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;
- (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;
- (13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;
- (14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated

requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

- (15) "Commission" means the Public Service Commission of Kentucky;
- (16) "Commissioner" means one (1) of the members of the commission;~~{and}~~
- (17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand.
- (18) "Municipality" means any city of the first, second, third, fourth, fifth, or sixth class;
- (19) "Municipal utility" means a utility owned, operated, and controlled directly or indirectly by a municipality, or by a corporation, partnership, joint venture, interlocal agreement, board, commission, or other entity the directors of which are appointed, in whole or part, by the municipality; and
- (20) "Telephone utility" means any person, including a municipality or municipal utility, who owns, controls, operates, or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in the air, or otherwise, of any message by telephone or telegraph for the public for compensation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other statute to the contrary, a municipality or municipal utility providing or planning to provide telecommunications services shall be subject to regulation by the Public Service Commission of Kentucky in the same manner as other nonmunicipal providers of telecommunications services, and shall be considered a telephone utility, as defined in KRS 278.010.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The commission shall have jurisdiction over municipalities and municipal utilities providing telecommunications services to ensure fair competition in the telecommunications market, including state Universal Service Fund responsibilities as defined by the commission under the requirements of the Telecommunications Act of 1996, and to ensure compliance with Section 2 of this Act. The commission may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A.

The Committee Substitute No. 1 to **HB 477** is as follows:

HB 477, AN ACT relating to the provision of telecommunication services by municipalities and municipal utilities.

WHEREAS, the legislature finds and determines that:

- (1) The United States Congress has passed sweeping legislation, known as the Telecommunications Act of 1996, that has opened the local exchange telecommunications market to competition;
- (2) The Act requires, among other things, that incumbent local exchange carriers negotiate interconnection agreements with new competitive carriers covering the resale of retail services, the purchase of network facilities, and the interconnection of facilities;
- (3) States have authority under the Act to arbitrate and approve interconnection agreements between carriers and to create a universal service fund supported by all competing carriers to advance and support universal service;
- (4) The Kentucky Public Service Commission is the administrative agency created by the legislature to regulate telecommunications services in Kentucky;
- (5) Municipalities and municipal utilities have begun to enter into the field of providing telecommunications services to the public for compensation;
- (6) The provision of services by municipalities and municipal utilities creates a new participant into the increasingly competitive but regulated industry;
- (7) Any competitive entry into the telecommunications market by municipalities or municipal utilities, which may create benefits for the citizens of the Commonwealth, correspondingly creates risks for existing providers of telecommunications services; and
- (8) A statutory framework for the regulation of entry into the telecommunications market and provision of telecommunications services by municipalities and municipal utilities is in the best interest of the citizens of the Commonwealth;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

Any city that owns, operates or controls, either directly or indirectly, a municipal utility that provides telecommunications services as defined in subsection (3)(e) of Section 4 of this Act shall, as to the telecommunication service solely, be subject to the provisions of KRS Chapter 278 in the same manner as other nonmunicipal providers of telecommunications services.

Section 2. KRS 96.170 is amended to read as follows:

The legislative body of any city of the third class may, by ordinance, provide the city and its inhabitants with water, light, power, ~~and heat and telephone service~~, by contract or by works of its own, located either within or beyond the boundaries of the city; make regulations for the management thereof, and fix and regulate the prices to private consumers and customers. Telecommunication service may be provided by any legislative body of any city of the third class by contract or by works of its own, except that any city of the third class that establishes municipal telephone service shall, for the telecommunications service solely, be deemed a utility under KRS 278.010 and shall be regulated, as to telecommunication service, by the Public Service Commission.

Section 3. KRS 96.190 is amended to read as follows:

- (1) The legislative body of any city of the fourth class may provide the city and all persons in the city with water, gas, electric power, light, and heat, ~~telephone and telegraph service~~, by contract with any person or by works and facilities owned or leased by the city and located within or beyond the city boundaries. Telecommunication service may be provided by any legislative body of any city of the fourth class by contract or by works of its own, except that any city of the fourth class that establishes municipal telephone service shall, for the telecommunications service solely, be deemed a utility under KRS 278.010 and shall be regulated as to the telecommunication service, by the Public Service Commission.
- (2) In all cases where the person furnishing the services is operating under a charter or franchise granted by the General Assembly prior to the adoption of the present Constitution of Kentucky the city legislative body may make and enforce rules and regulations for the furnishing and sale of such services, fix and regulate the quality, character and standards of such services; and fix and regulate the rates charged consumers for such services.

Section 4. KRS 96.520 is amended to read as follows:

- (1) Any city of the second, third, fourth, fifth, or sixth class may purchase, establish, erect, maintain, and operate electric light, heat, and power plants, with extensions and necessary appurtenances, within or without the corporate limits of the city, for the purpose of supplying the city and its inhabitants with electric light, heat, power, and telecommunications. Any city-owned utility created under this section that provides telecommunications services shall be regulated as to that service by KRS Chapter 278. For the ~~and, for this~~ purpose of providing electric light, heat, power, and telecommunications services, a city of the second, third, fourth, fifth, or sixth class may enter into and fulfill the terms of an interconnection agreement with any electric or combination electric or gas utility whose rates and service are regulated by the Public Service Commission of Kentucky (or, if not so regulated, operating and having customers only outside of Kentucky), or an affiliate entirely owned by or under complete common ownership with an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky. Any city of the second, third, fourth, fifth, or sixth class, ~~and~~ may establish, erect, maintain, and operate plants, individually or jointly with any of these utilities or utility affiliate. In the case of any joint action, a city and utility or utility affiliate may provide by contract for their respective responsibilities, for operation and maintenance and for the allocation of expenses, revenues, and power. If in the accomplishment of this purpose a city at any time has capacity or energy surplus to the immediate needs of the city and its inhabitants, the surplus, if not disposed of for consumption outside this state, may be disposed of only to an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky, or to an affiliate entirely owned by or under complete common ownership with such a utility.
- (2) The city shall proceed in the same manner and be governed by the same conditions as are set forth in KRS 96.360 to 96.510 for the acquisition and operation of a water system, with the following exceptions:
 - (a) A petition calling for an election on the proposition of purchasing an existing plant shall be signed by at least two hundred (200) qualified voters of the city, rather than by twenty-five percent (25%) of the qualified voters of the city who voted at the last preceding regular election.
 - (b) Notwithstanding any other laws, bonds may be issued bearing interest at a rate or rates and may be sold on a basis to yield interest at a rate or rates as may be determined upon the sale of the bonds.
 - (c) Bonds of an issue, or bonds of two (2) or more issues consolidated for the purposes of sale, which equal or exceed \$10,000,000 in the aggregate principal amount may be sold at public or private sale without compliance with KRS 424.360.
- (3) This section constitutes a method for the acquisition of an electric light, heat, and power plant by any city of the second, third, fourth, fifth, or sixth class in addition or as an alternate to any other method authorized by statute, provided that the city was operating an electric plant on June 1, 1942, and has not elected to operate under KRS 96.550 to 96.900. No proceedings shall be required for the acquisition of any electric light, heat, or power plant or the issuance of bonds under this section except the proceedings required by KRS 96.360 to 96.510.

Section 5. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

- (1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies, and business trusts;
- (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common

interest;

- (3) "Utility" means any person except, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, ~~or~~ operates, or manages any facility used or to be used for or in connection with:
 - (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;
 - (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;
 - (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;
 - (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;
 - (e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or
 - (f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;
- (4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;
- (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;
- (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;
- (7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;
- (8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;
- (9) "Generation and transmission cooperative", or "G&T", means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;
- (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;
- (11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;
- (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;
- (13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;
- (14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;
- (15) "Commission" means the Public Service Commission of Kentucky;
- (16) "Commissioner" means one (1) of the members of the commission; and
- (17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand.

The Committee Amendment No. 1 to the Committee Substitute to **HB 477** is as follows:

On page 2, line 2, before "**Any**" by inserting the following "**Any legislative body of any city of the first through the fifth class may provide telecommunications service.**"; and

On page 2, line 4, by deleting "**the telecommunication**" and inserting in lieu thereof "**telephone**";

On page 2, line 6, by deleting "**telecommunications**" and inserting in lieu thereof "**telephone**";

On page 2, line 15, by deleting "**the telecommunications**" and inserting in lieu thereof "**purposes of that**"; and

On page 2, line 16, by deleting "telecommunication" and inserting in lieu thereof "telephone"; and
On page 2, line 24, by deleting "the" at the end of the line; and
On page 2, line 25, by deleting "telecommunications" and inserting in lieu thereof "that"; and
On page 2, line 26, by deleting "telecommunication" and inserting "telephone" in lieu thereof; and
On page 3, line 15, by deleting "telecommunications" and inserting "telephone" in lieu thereof.

The Committee on Health and Welfare reported **HB 405**, with Committee Substitute attached thereto, **HB 429**, with Committee Substitute attached thereto, **HB 448**, with Committee Substitute attached thereto, **HB 450**, **HB 468**, with Committee Substitute attached thereto, and **HB 497** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 405, AN ACT relating to emergency medical services and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.950 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As used in KRS 311.652 to 311.658~~[211.952 to 211.956]~~, unless the context otherwise requires:

- ~~(1)~~ ~~"Advisory committee" means the Emergency Medical Services for Children Advisory Committee of the Kentucky Emergency Medical Services Council established under KRS 211.9533;~~
- ~~(2)~~ "Ambulance" means a vehicle which has been inspected and approved by the board~~[cabinet]~~, including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;
- ~~(2)(3)~~ "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the board~~[Cabinet for Health Services]~~ to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft. An ambulance provider may be licensed as an air ambulance provider; as a Class I ground ambulance provider; as a Class II ground ambulance provider; or as a Class III ground ambulance provider;
- ~~(3)~~ **"Board" means the Kentucky Board of Emergency Medical Services;**
- (4) "Department" means the Department for Public Health;
- (5) "Emergency medical facility" means a hospital, trauma center, or any other institution licensed by the Cabinet for Health Services that furnishes emergency medical services;
- (6) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;
- (7) "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under Section 5 of this Act~~[KRS 211.9531]~~;
- (8) "Emergency medical services personnel" means persons, including physicians, certified or licensed, and trained to provide emergency medical services, whether on a paid or volunteer basis, as part of basic life support, advanced life support, or prehospital services, ~~or hospital emergency care services or in an emergency department or critical care or specialized unit in a licensed hospital or other licensed emergency or critical care medical facility~~;
- (9) "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services, ~~emergency medical facilities and specialty care hospitals,~~ trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;
- (10) **"Emergency medical technician" or "(EMT)" means a person licensed under KRS 311.652 to 311.658 as an EMT-basic, EMT-basic instructor, EMT-instructor trainer, EMT-first responder, or EMT-first responder instructor;**
- (11) **"Paramedic" means a person who is primarily involved in the delivery of emergency medical services and is licensed under KRS 311.652 to 311.658;**
- (12) "Prehospital care" means the provision of emergency medical services or transportation by trained and ~~certified or~~ licensed emergency medical services personnel at the scene of an emergency or while transporting sick or injured persons to a hospital or other emergency medical facility;
- ~~(13)(11)~~ "Regional emergency medical services system" means a system approved by the board~~[Cabinet for Health~~

~~Services~~ which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health-care services in an appropriate geographical area;

~~(14)(12)~~ "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and

~~(15)(13)~~ "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

SECTION 2. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Emergency Medical Services is created and shall consist of thirteen (13) members appointed by the Governor and two (2) members appointed by officers of the General Assembly. Membership shall be made up of the following:

- (a) One (1) paramedic not serving in an educational, management, or supervisory capacity;
- (b) One (1) emergency medical technician-basic who is not serving in an educational, management, or supervisory capacity;
- (c) One (1) emergency medical technical-first responder who is not serving in an educational, management, or supervisory capacity;
- (d) One (1) physician having a primary practice in the delivery of emergency medical care;
- (e) One (1) citizen having no direct involvement in the delivery of medical or emergency services;
- (f) One (1) representative of a Kentucky college or university that provides emergency medical services educational courses or programs;
- (g) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;
- (h) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;
- (i) One (1) chief operating officer of a volunteer-staffed, licensed Class I ground ambulance service;
- (j) One (1) chief operating officer of a fire-service-based, licensed Class I ground ambulance service;
- (k) One (1) chief operating office of a hospital-based, licensed Class I ground ambulance service;
- (l) One (1) chief operating officer of a private, licensed Class I ground ambulance service;
- (m) One (1) chief operating officer of a licensed Class I ground ambulance service operated by a unit of government not otherwise listed in this section;
- (n) One (1) member of the Kentucky House of Representatives, who shall serve as an exofficio member; and
- (o) One (1) member of the Kentucky Senate, who shall serve as an exofficio member.

(2) The Governor shall appoint the members listed in paragraphs (a) to (g) of subsection (1) of this section for an initial term of three (3) years, and the Governor shall appoint the members listed in paragraphs (h) to (m) of subsection (1) of this section for an initial term of two (2) years. The House of Representatives and Senate members shall be appointed by the Speaker of the House and the President of the Senate, respectively, for an initial term of two (2) years. Reappointments and subsequent new appointments shall be for a two (2) year term. No board member shall serve more than three (3) consecutive terms.

(3) Members of the board and of all committees shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state regulations relating to travel reimbursement. The board shall meet at least six (6) times each year.

(4) The board shall:

- (a) Exercise all of the administrative functions of the state in the regulation of the emergency medical services system and the practice of paramedics, emergency medical technicians, first responders, dispatchers, ambulance services, and training institutions;
- (b) Issue, deny, suspend, limit, restrict, and revoke any licenses or certifications, and reprimand or place an individual with a licensee or certificate on probation;
- (c) Appoint an executive director and fix the compensation. The executive director shall serve at the pleasure of the board and supervise all operations of the board;
- (d) Appoint or contract with a physician and fix the compensation. The physician shall serve as the state medical director and report to and serve at the pleasure of the board;
- (e) Appoint a full-time general counsel and fix the compensation;
- (f) Employ office and field staff;
- (g) Establish committees and subcommittees, who need not be members of the board, as necessary;

- (h) Establish, operate, and maintain a statewide training incentive fund;
 - (i) Investigate and hold hearings for any disciplinary proceedings in accordance with KRS Chapter 13B;
 - (j) Impose fines against individuals or agencies governed by the board;
 - (k) Enter into contracts, apply for grants and federal funds, and disburse grants to local units of government as approved by the General Assembly;
 - (l) Maintain a program and provide technical assistance for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state;
 - (m) Collect and analyze data for evaluation of emergency medical services in the Commonwealth;
 - (n) Administer the Emergency Medical Services for Children Program; and
 - (o) Approve curricula and standard for emergency medical services training.
- (5) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities. On the effective date of this Act, the board shall have custody of all the records relating to emergency medical services formerly maintained by the Cabinet for Health Services and the Kentucky Board of Medical Licensure. All unexpended funds under the control of the Cabinet for Health Services and the Kentucky Board of Medical Licensure on the effective date of this Act, that were derived from fees collected for certification of emergency medical services personnel shall be transferred to the board to be expended in the performance of the duties specified in KRS 311.652 to 311.658.

Section 3. KRS 211.952 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the functions of KRS 311.652 to 311.658, including, but not limited to:

- (1) ~~[The Cabinet for Health Services shall maintain a program for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state.]~~
- (2) ~~The Cabinet for Health Services shall establish and designate a single lead agency under the supervision and direction of the commissioner of public health which will carry out all administrative functions related to the planning, development, improvement, and expansion of emergency medical services systems throughout the state. This will include:~~
 - ~~(a) The training and certification of prehospital personnel;~~
 - ~~(b) The promulgation of standards and regulations for emergency medical services personnel;~~
 - ~~(c) The promulgation of administrative regulations for the [Licensing, inspection, and regulation of ambulance and medical first-response providers. The administrative regulations shall address specific requirements for:~~
 - ~~(a)[1-] Air ambulance providers, which provide basic or advanced life support services;~~
 - ~~(b)[2-] Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for[both] emergencies and scheduled ambulance transportation which is medically necessary;~~
 - ~~(c)[3-] Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;~~
 - ~~(d)[4-] Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care; and~~
 - ~~(e)[5-] Medical first-response providers, which[who] provide prehospital basic life support services, or advanced life support services, but do not transport patients;~~
- ~~(2)[(d)]Establishing[Planning and development of emergency medical services and trauma care systems;~~
- ~~(e) Promulgation of voluntary] standards for trauma centers[and other specialized emergency medical facilities];~~
 - ~~[(f) Provision of funding and technical assistance as shall become available; and]~~
- ~~(3)[(g)]Establishing minimum data reporting requirements, including requirements specifically related to emergency medical services and trauma care of children, for ambulance providers and trauma centers[and other specialized emergency medical facilities] and collection and analysis of data related to the provision of emergency medical services and trauma care;[and]~~
- ~~(4)[(h)]Establishing the Emergency Medical Services for Children Program with federal funds so designated plus any additional funds that may be appropriated by the General Assembly, or any other funds that may become available to the cabinet, including gifts, grants, or other sources;[-~~
- ~~(3) Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.]~~

~~(5)(4) Developing~~ [The cabinet shall promulgate administrative regulations and perform the necessary functions to carry out the purpose of this section including:

- ~~(a) Delineation, by administrative order of the secretary, of the geographic boundaries of regional emergency medical services systems.~~
- ~~(b) Promulgation of administrative regulations providing for:~~
 - ~~1. Composition of regional emergency medical services advisory boards to serve in an advisory capacity to the Kentucky Emergency Medical Services Council;~~
 - ~~2. Terms of office of regional emergency medical services advisory board members;~~
 - ~~3. Appointment of regional emergency medical services advisory board members; and~~
 - ~~4. Such other matters relating to regional emergency medical services systems as may be necessary.~~
- ~~(c) Provision of technical assistance to regional emergency medical services advisory boards, units of local government, and others in planning for the development, coordination, and monitoring of emergency medical services.~~
- ~~(d) Development of~~ a statewide plan for the implementation of emergency medical services systems and trauma care systems within the Commonwealth of Kentucky ~~that~~ [which] specifically addresses the unique needs of rural areas;[-
- ~~(e) Issuance of a format for the development of regional emergency medical services plans consistent with goals and standards included in the statewide emergency medical services plan.]~~
- ~~(6)(9) Applying~~ [Application] for, ~~receiving~~ [receipt of], and ~~disposing~~ [disposition] of federal, state, or private funds by grant, appropriation, donation, or otherwise for emergency medical services programs, personnel, and equipment;[-
- ~~(g) Awarding of funds to regional emergency medical services systems to implement specific objectives delineated in regional emergency medical services plans, including assistance to local governments for their provision of ambulance service.]~~
- ~~(7)(h) Developing~~ [Development], monitoring, and ~~encouraging~~ [encouragement] of [such] other projects and programs ~~that~~ [which] may be of benefit to emergency medical services in the Commonwealth;[-]

~~(8)(i) Conducting verification inspections to ensure compliance with requirements~~ [voluntary standards] established by the ~~board~~ [cabinet] for trauma centers; ~~and~~ emergency departments, and specialized hospital-based services for which standards have been established by the cabinet for emergency medical services and trauma care systems.

~~(5) The cabinet shall establish a Kentucky Emergency Medical Services Council which shall advise the cabinet on issues relating to the development, implementation, regulation, maintenance, and reimbursement of emergency medical services systems and providers. This council shall be broadly representative of individuals, providers, and public officials having expertise in emergency medical services. The council shall consult with the Kentucky Board of Medical Licensure to establish medically appropriate standards and protocols which will be utilized by emergency medical services personnel and to assist the Kentucky Board of Medical Licensure in meeting the requirements of KRS 311.654. The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.~~

~~(6) Data and records generated and kept by the single emergency medical services administrative agency, the Kentucky Emergency Medical Services Council, the Emergency Medical Services for Children Advisory Committee, the Kentucky Emergency Medical Services for Children Program or their contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first response providers, and emergency medical facilities, shall be held confidential, shall not be subject to disclosure under KRS 61.805 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery; provided, however, that nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment which otherwise would be admissible or discoverable.~~

~~(7) Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.]~~

~~(9) Establishing standards related to the training of emergency medical services training programs.~~

Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.

Section 4. KRS 211.953 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The Kentucky General Assembly declares that the purpose of Section 5 of this Act [KRS 211.9531 and 211.9533] is to establish a comprehensive emergency medical services system for children, as an integral part of Kentucky's overall emergency medical services and trauma care system, in order to provide children with access to comprehensive emergency [and critical care medical services, including preventive, prehospital, hospital, rehabilitation, and other posthospital] care. The General Assembly

recognizes the contributions of the federally funded Emergency Medical Services for Children program in Kentucky and desires to continue and expand the activities initiated by this program. The General Assembly finds that coordination of emergency services, additional training of emergency medical services personnel, communication among service providers, and enhanced data collection efforts will provide children with access to skilled emergency care, decrease unnecessary deaths from injury, decrease the overall costs of health care, and provide information as to the quality of emergency medical care for children.

Section 5. KRS 211.9531 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

(1) ~~There is established within the department's lead agency for emergency medical services an Emergency Medical Services for Children Program.~~

(2) The ~~board shall~~ cabinet may hire a coordinator for the Emergency Medical Services for Children [EMSC] Program ~~who shall be assigned to the department's lead agency for emergency medical services. The authorized personnel cap for the department may be increased to include the coordinator~~ and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2) ~~(3)~~ The coordinator shall:

- (a) Implement and oversee the EMSC Program described in this section ~~in consultation with the advisory committee established in Section 5 of this Act~~; and
- (b) Serve as liaison for collaboration and coordination between the EMSC Program, board and other public and private organizations, ~~including the department's lead emergency medical services agency~~, the state traffic safety office, the maternal and child health program, the Medicaid department, the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3) ~~(4)~~ The EMSC Program may include, but not be limited to, the establishment of the following:

- (a) ~~Guidelines for the approval of emergency medical services facilities for pediatric care, and designation of specialized regional pediatric critical care centers and pediatric trauma centers;~~
- (b) ~~Guidelines for referring children to the appropriate emergency medical facility;~~
- (c) ~~Guidelines for necessary prehospital and other pediatric emergency and critical care~~ medical service equipment;
- (b) ~~(d)~~ Guidelines for developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care, or pediatric subspecialty care;
- (e) ~~Guidelines and protocols for prehospital and hospital facilities encompassing all levels of~~ pediatric emergency medical services ~~pediatric critical care, and pediatric trauma care;~~
- (f) ~~Guidelines for rehabilitation services for critically ill or injured children;~~
- (g) ~~A system for transferring critically ill or injured children between emergency medical facilities, services, and systems;~~
- (c) ~~(h)~~ Assistance in the development and provision of ~~initial and continuing~~ professional education programs for emergency medical services personnel ~~which shall include training~~ in the emergency care of infants and children;
- (d) ~~(i)~~ A public education program concerning the EMSC Program, including information on emergency access telephone numbers;
- (j) ~~The collection and analysis of statewide pediatric emergency and critical care medical services data from emergency medical facilities for the purpose of quality improvement by these facilities, subject to the confidentiality requirements of KRS 211.952(6);~~
- (k) ~~The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency medical services;~~
- (4) Coordination and cooperation between the EMSC Program and other public and private organizations interested or involved in emergency ~~and critical~~ care for children, including those persons and organizations identified in subsection (2) ~~(3)~~ (b) of this section; and
- (e) ~~(m)~~ The scope of activities carried out by the EMSC Program shall be commensurate with the availability of funds.

Section 6. KRS 211.954 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

A matching fund program is hereby created for the purpose of assisting local units of government ~~ambulance providers~~ in the purchases of ambulances and equipment, provision of an adequate number of trained emergency medical services personnel, and provision of education for personnel. The fund shall consist of such moneys as may be appropriated by the General Assembly or may be obtained from other sources for the fund as provided in this section ~~and KRS 211.956~~:

- (1) Application and justification of need for moneys from the fund shall be based upon the state emergency medical services plan's priorities;
- (2) Application for moneys from the fund may be made to the ~~board~~~~[Cabinet for Health Services]~~ by any city, county, ambulance taxing district, or regional emergency medical services system based upon guidelines established by the ~~board~~~~[Cabinet for Health Services]~~;
- (3) Moneys from the fund will provide for up to a maximum of fifty percent (50%) of the actual cost of any ambulance or other item of equipment desired to be procured. No county, including all grants to entities within the county, shall receive more than fifty thousand dollars (\$50,000)~~[twenty-five thousand five hundred dollars (\$25,500)]~~ from the fund per year;
- (4) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the recipient~~[city, county, or regional emergency medical services system]~~;
- (5) Funding periods shall coincide with the fiscal year as established by the ~~board~~~~[Cabinet for Health Services]~~; and
- (6) Each ambulance or item of equipment purchased shall meet or exceed~~[if a standard has been set for the particular item of equipment]~~ the standards set by the ~~board~~~~[Cabinet for Health Services]~~.

Section 7. KRS 211.962 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

No person shall:

- (1) Hold himself out as ~~licensed~~~~[certified]~~ pursuant to KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~ nor use the initials "EMT" when he does not hold a current valid ~~license~~~~[certification]~~ issued pursuant to KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~; or
- (2) If ~~licensed~~~~[certified]~~, violate any provision of KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~ or any rule or regulation, adopted by the ~~board~~~~[Cabinet for Health Services]~~ relating to ~~Section 8 of this Act~~~~[KRS 211.964]~~.

Section 8. KRS 211.964 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

- (1) The ~~board~~~~[Cabinet for Health Services]~~ shall promulgate administrative regulations relating to emergency medical technicians. The regulations may include the classification and ~~licensure~~~~[certification]~~ of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of ~~licenses~~~~[certificates]~~; hearing of appeals; and other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. ~~[Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.]~~ No additional testing or examinations shall be required for ~~relicensure~~~~[recertification]~~, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.
- (2) ~~Relicensure~~~~[Recertification]~~ programs shall be organized to include continuing education and in-service training approved by the ~~board~~~~[cabinet]~~. The continuing education program shall be subject to the requirements of KRS 214.610(1).
- (3) On or after the effective date of this Act, a new emergency medical technician shall, for initial licensure, be licensed using the requirements and testing established by the National Registry of Emergency Medical Technicians.
- (4) On or after the effective date of this Act, a licensed emergency medical technician who seeks relicensure shall obtain relicensure under the requirements established and maintained by the cabinet. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year relicensure period. The cabinet shall also relicense any emergency medical technician who chooses to obtain relicensure under the requirements established by the National Registry of Emergency Medical Technicians in lieu of the standards established by the cabinet.
- ~~(5) In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.~~
- ~~(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.~~
- ~~(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.~~

~~(6)~~ Other than the requirements of KRS 214.610(1), the ~~board~~~~[cabinet]~~ shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for ~~licensure~~~~[certification]~~ or ~~relicensure~~~~[recertification]~~ as an emergency medical technician.

~~(6)~~~~(7)~~ Other than the requirements of KRS 214.610(1), any person ~~licensed~~~~[certified]~~ by the ~~board~~~~[State Board of Medical Licensure]~~ as a paramedic shall be ~~licensed~~~~[certified]~~ as an emergency medical technician by the ~~board~~~~[cabinet]~~. The ~~license~~~~[certification]~~ shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician ~~license~~~~[certification]~~ shall be issued and expire at the same time that ~~the~~ paramedic ~~license~~~~[certification]~~ is issued or expires, and if a paramedic voluntarily gives up his ~~license~~~~[certification]~~ prior to the expiration of his paramedic ~~license~~~~[certification]~~, his emergency medical technician ~~license~~~~[certification]~~ shall be unaffected thereby. If a paramedic chooses not to ~~be relicensed~~~~[recertify]~~ as a paramedic but chooses to retain his emergency medical technician ~~license~~~~[certification]~~, the paramedic shall, prior to the expiration of his paramedic ~~license~~~~[certification]~~, ~~complete the requirements for relicensure~~~~[recertify]~~ as an emergency medical technician utilizing one (1) of the methods provided for in this section.

~~(7)~~~~(8)~~ A paramedic whose certification as a paramedic is suspended, revoked, or denied by the ~~board~~~~[State Board of Medical Licensure]~~ shall have the same action taken automatically~~[by the cabinet]~~ with regard to his emergency medical technician certification.

Section 9. KRS 211.966 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The ~~board~~~~[secretary of the Cabinet for Health Services]~~ may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ~~licenses~~~~[certificates]~~, and for the renewal of ~~licenses~~~~[certificates]~~ issued pursuant to KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~. All such fees, charges, or other moneys collected by the ~~board~~~~[cabinet]~~ under KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~ shall be paid into the State Treasury and credited to a trust and agency fund to be used by the ~~board~~~~[Cabinet for Health Services]~~ for carrying out the provisions of KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~.

Section 10. KRS 211.967 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As a condition of being issued a ~~license~~~~[certificate]~~ as an emergency medical technician, the applicant shall have completed a ~~Cabinet for Health Services~~~~[cabinet]~~ approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 11. KRS 211.968 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

Nothing in KRS ~~311.652 to 311.658~~~~[211.962 to 211.966]~~ shall be construed to permit ~~licensure~~~~[certification]~~ or utilization of any ~~licensed~~~~[certified]~~ emergency medical technician for the purpose of such individual working full time with primary responsibility and duties limited to hospitals, physicians' offices, clinics, or other definitive care facilities, except~~[for certification or utilization of a person]~~ as an emergency medical technician trainee or as a full-time instructor of emergency medical technicians.

Section 12. KRS 211.990 is amended to read as follows:

- (1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.
- (2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.
- (3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.
- (4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.
- ~~(5)~~ ~~Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.~~
- ~~(6)~~ A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.
- ~~(6)~~~~(7)~~ Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.

~~(7)~~~~(8)~~ A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

~~(8)~~~~(9)~~ Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

~~(9)~~~~(10)~~ The penalties provided in subsections ~~(5)~~, (6), (7), ~~and (8)~~, ~~and (9)~~ of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

~~(10)~~~~(11)~~ Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). Each day of violation or noncompliance shall constitute a separate offense.

Section 13. KRS 205.6314 is amended to read as follows:

The Cabinet for Health Services shall review the Medical Assistance Program reimbursement rates for emergency transportation providers to determine if existing rates are fair and reasonable. Notwithstanding this review, the cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, do the following:

- (1) Prescribe reimbursement rates for emergency transportation providers to ensure that emergency rates are paid only for transporting medical assistance recipients to the emergency room of a hospital in emergency situations. **These rates shall be at least equal to those established by the Federal Health Care Financing Administration for Medicare reimbursement;**
- (2) Establish, in nonemergency cases, lower medical assistance reimbursement rates for emergency transportation providers for the transportation of stretcher patients from nursing homes to physician offices or hospitals. **These rates shall be at least equal to those established by the Federal Health Care Financing Administration for Medicare reimbursement;** and
- (3) Establish a verification system that requires medical providers to confirm that medical assistance recipients have appointments for medical services and that medical services were medically necessary and were obtained prior to payment by the cabinet to the emergency transportation provider.

Section 14. KRS 216B.410 is amended to read as follows:

- (1) Each licensed ambulance provider and medical first response provider as defined in **Section 3 of this Act**~~KRS 211.952(2)~~ shall collect and provide to the **Kentucky Board of Emergency Medical Services**~~cabinet~~ run data and information required by the **Kentucky Board of Emergency Medical Services**~~cabinet~~ by administrative regulation.
- (2) The **Kentucky Board of Emergency Medical Services**~~cabinet~~ shall develop a run report form for the use of each class of ambulance provider and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider or medical first response provider may utilize any run form it chooses in lieu of or in addition to the **Kentucky Board of Emergency Medical Services**~~cabinet~~ developed run report form. However, the data captured on the run report form shall include at least that required by the administrative regulations promulgated pursuant to subsection (1) of this section.
- (3) An ambulance provider or medical first response provider ~~shall~~may report the required run report data and information by **completing an annual report as established by the Kentucky Board of Emergency Medical Services**~~sending copies of the completed run report forms to the cabinet~~ or by transmitting the required data and information to the cabinet in an electronic format. If the **Kentucky Board of Emergency Medical Services**~~cabinet~~ requires the use of a specific electronic format, it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.
- ~~(4) Each ambulance provider or medical first response provider shall submit its run reports or data summary reports in electronic format on the time schedule specified by the cabinet by administrative regulation.~~
- ~~(5)~~ The **Kentucky Board of Emergency Medical Services**~~cabinet~~ shall publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the **board**~~cabinet~~. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report shall be forwarded **to the Governor and the General Assembly**~~by the cabinet to the Kentucky Board of Medical Licensure~~.
- ~~(5)~~~~(6)~~ Ambulance provider and medical first response provider run report forms and the information transmitted electronically to the **Kentucky Board of Emergency Medical Services**~~cabinet~~ shall be confidential. No person shall make an unauthorized release of information on an ambulance run report form or medical first response run report form. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's run report form or the inspection or copying of the run report form. Any authorization for the release of information or for inspection or copying of a run report form shall be in writing.
- ~~(6)~~~~(7)~~ If a medical first response provider or ambulance provider does not use a paper form but collects patient data through

electronic means, it shall have the means of providing a written run report that includes all required data elements to the medical care facility. A copy of the medical first response form or a summary of the run data and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the run report form that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their run report form or is unavailable to receive the form, that copy of the form shall be returned to the medical first response provider or ambulance provider and destroyed.

~~(7)(8)~~ All ambulance services shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

- (a) Employee records, including a resume of each employee's training and experience and evidence of current certification; and
- (b) Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

(8) Data and records generated and kept by the board or its contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identifies of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be held confidential, shall not be subject to disclosure under KRS 61.805 to 61.850 or KRS 61.870 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery. However, nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment that otherwise would be admissible or discoverable.

Section 15. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1)
 - (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;
 - (b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;
 - (c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;
 - (d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;
 - (e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;
 - (f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;
- (2)
 - (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;
 - (b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;
 - (c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;
- (3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;
- (4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method,

saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term ; and

- (5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in Section 1 of this Act ~~[KRS 211.950]~~. It shall not mean a motor vehicle equipped with a stretcher;
- (b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles; and
- (c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principle operation of which is confined to a specific county.

Section 16. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

- (1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;
- (2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:
 - (a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;
 - (b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;
 - (c) For both the purposes described in paragraphs (a) and (b) of this subsection;
 - (d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or
 - (e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;
- (3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;
- (4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;
- (5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;
- (6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;
- (7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;
- (8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in Section 1 of this Act ~~[KRS 211.950]~~;
- (9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;
- (10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an

aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

- (11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;
- (12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section; or
- (13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI.

Section 17. KRS 304.17A-580 is amended to read as follows:

- (1) Health benefit plans shall educate their insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.
- (2) ~~All health benefit plans [using a defined network of health care providers]~~ shall cover **emergency medical services and supplies and** emergency department screening and stabilization services both in-network and out-of-network without prior authorization for use consistent with the prudent layperson standard. **Reimbursement for supplies used by an ambulance provider during prehospital care for an ill or injured individual shall not be restricted to individuals transported by the ambulance provider.**
- (3) Emergency department personnel shall contact a patient's primary care provider or health benefit plan, as appropriate, as quickly as possible to discuss follow-up and poststabilization care and promote continuity of care.

Section 18. KRS 304.39-080 is amended to read as follows:

- (1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."
- (2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.
- (3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies may continuously provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.
- (4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.
- (5) Except for entities described in subsections (3) and (4), every owner of a motor vehicle registered in this Commonwealth or operated in this Commonwealth by him or with his permission shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle. **The benefits shall include coverage for emergency medical services and supplies.** The owner of a motor vehicle who fails to maintain security on a motor vehicle in accordance with this subsection shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040.
- (6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this subtitle.
- (7) Self-insurance, subject to approval of the commissioner of insurance, is effected by filing with the commissioner in satisfactory form:
 - (a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this subtitle;
 - (b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this subtitle; and
 - (c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

- (8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation benefits in accordance with this subtitle; and
- (9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

Section 19. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties ~~for which they have been trained~~ by emergency medical technicians, paramedics, or medical emergency dispatchers licensed or certified by the Kentucky Board of Emergency Medical Services ~~Cabinet for Health Services~~, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;
- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;
- (18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and
- (19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the

supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

Section 20. KRS 311.652 is amended to read as follows:

No person shall:

- (1) Hold himself out as ~~licensed~~~~[certified]~~ pursuant to KRS ~~311.652~~~~[311.650]~~ to 311.658 nor use the term "paramedic" when he does not hold a current valid ~~license~~~~[certification]~~ issued pursuant to KRS ~~311.652~~~~[311.650]~~ to 311.658; or
- (2) If ~~licensed~~~~[certified]~~, violate any provision of KRS ~~311.652~~~~[311.650]~~ to 311.658 or any rule or regulation, adopted by the board~~[of Medical Licensure]~~, relating to KRS 311.654.

Section 21. KRS 311.654 is amended to read as follows:

- (1) The board~~[of Medical Licensure]~~ shall promulgate administrative regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and ~~licensure~~~~[certification]~~ of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of ~~licenses~~~~[certificates]~~, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.
- (2) **Relicensure programs shall be organized to include continuing education and in-service training approved by the board. The continuing education program shall be subject to the requirements of KRS 214.610(1).**~~[Any continuing education required by the Board of Medical Licensure shall include a Cabinet for Health Services approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.]~~
- (3) ~~The Kentucky Board of Medical Licensure shall enter into an agreement with the Cabinet for Health Services whereby the cabinet's lead agency for emergency medical services shall carry out the day-to-day administration of this section under administrative regulations promulgated by the Board of Medical Licensure. The Kentucky Emergency Medical Services Council will provide advice and recommendations to the Kentucky Board of Medical Licensure related to the provisions of KRS 311.650 to 311.658.]~~

Section 22. KRS 311.656 is amended to read as follows:

The board~~[of Medical Licensure]~~ may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ~~licenses~~~~[certificates]~~, and for the renewal of ~~licenses~~~~[certificates]~~ issued pursuant to KRS ~~311.652~~~~[311.650]~~ to 311.658. All such fees, charges or other moneys collected by the board~~[of Medical Licensure]~~ under KRS ~~311.652~~~~[311.650]~~ to 311.658 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the board~~[of Medical Licensure]~~ for carrying out the provisions of KRS ~~311.652~~~~[311.650]~~ to 311.658.

Section 23. KRS 311.658 is amended to read as follows:

- (1) **Paramedics and emergency medical technicians may function in emergency and nonemergency out-of-hospital situations. They shall function within the scope of practice and settings established by the board.**
- (2) **Nothing in KRS 311.652 to 311.658 shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses**~~[Paramedics shall be permitted to render services only in emergency situations, and shall perform such services under supervision of a qualified and licensed health practitioner].~~

Section 24. KRS 311.660 is amended to read as follows:

- (1) When it appears that a person whom a paramedic who has successfully completed training in determination of death has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the paramedic or an emergency medical technician who has responded with or after the paramedic, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the paramedic may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.
- (2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.
- (3) Any paramedic course taught after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the board~~[of Medical Licensure]~~ by administrative regulation.
- (4) Any paramedic ~~relicensed~~~~[recertified]~~ within the ~~three (3)~~~~[two (2)]~~ years following July 15, 1998, shall successfully complete in-service training required by the board~~[of Medical Licensure]~~ by administrative regulation relating to determination of death and preservation of evidence. Any paramedic who does not successfully complete the required in-service training shall not be ~~relicensed~~~~[recertified]~~.

- (5) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and certification as a paramedic shall be denied if the required evidence is not shown.
- (6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a registered nurse rendering care pursuant to KRS 314.181, prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.
- (7) The resuscitative efforts of a paramedic under the protocols authorized by this section shall not invoke the provisions of KRS 446.400.

Section 25. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
 - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
 - (a)
 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
 - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any person who violates KRS 311.652 or any rule or regulation of the Kentucky Board of Emergency Medical Services ~~[board of medical licensure]~~ adopted pursuant to KRS 311.654 or Section 3 of this Act shall be guilty of a Class A misdemeanor.
- (22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (23) Any person who violates KRS 311.914 shall be guilty of a violation.
- (24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.
- (27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

Section 26. The following KRS sections are repealed:

- 211.9533 Emergency Medical Services for Children Advisory Committee.
- 211.9535 Biennial report on EMSC Program.
- 211.956 Matching fund program for providing trained emergency medical service personnel.
- 211.960 Title.
- 311.650 Definition.

Section 27. There is appropriated eight million six hundred ten thousand ninety dollars (\$8,610,090) for the 2000-2001 fiscal year and eight million two hundred eighty thousand ninety-four dollars (\$8,280,094) for the 2001-2002 fiscal year out of the General Fund in the State Treasury for the purposes of funding the functions of the Kentucky Board of Emergency Medical Services and to provide grants to local units of government for emergency medical services.

The Committee Substitute No. 1 to **HB 405** is as follows:

HB 405, AN ACT relating to emergency medical services and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.950 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As used in KRS 311.652 to 311.658~~[211.952 to 211.956]~~, unless the context otherwise requires:

- (1) ~~["Advisory committee" means the Emergency Medical Services for Children Advisory Committee of the Kentucky Emergency Medical Services Council established under KRS 211.9533;~~
- (2) "Ambulance" means a vehicle which has been inspected and approved by the board~~[cabinet]~~, including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;
- (2)~~(3)~~ "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the board~~[Cabinet for Health Services]~~ to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft. An ambulance provider may be licensed as an air ambulance provider; as a Class I ground ambulance provider; as a Class II ground ambulance provider; or as a Class III ground ambulance provider;
- (3) "Board" means the Kentucky Board of Emergency Medical Services;
- (4) "Department" means the Department for Public Health;
- (5) "Emergency medical facility" means a hospital, trauma center, or any other institution licensed by the Cabinet for Health Services that furnishes emergency medical services;
- (6) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;
- (7) "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under Section 5 of this Act~~[KRS 211.9531];~~
- (8) "Emergency medical services personnel" means persons, including physicians, certified or licensed, and trained to provide emergency medical services, whether on a paid or volunteer basis, as part of basic life support, advanced life support, or prehospital services~~[or hospital emergency care services or in an emergency department or critical care or specialized unit in a licensed hospital or other licensed emergency or critical care medical facility];~~
- (9) "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services, ~~emergency medical facilities and specialty care hospitals,~~ trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;
- (10) "Emergency medical technician" or "(EMT)" means a person certified under KRS 311.652 to 311.658 as an EMT-first responder, EMT-basic, EMT-basic instructor, EMT-instructor trainer, or EMT-first responder instructor;
- (11) "Paramedic" means a person who is primarily involved in the delivery of emergency medical services and is licensed under KRS 311.652 to 311.658;
- (12) "Prehospital care" means the provision of emergency medical services or transportation by trained and ~~certified or~~ licensed emergency medical services personnel at the scene of an emergency or while transporting sick or injured persons to a hospital or other emergency medical facility;
- (13)~~(11)~~ "Regional emergency medical services system" means a system approved by the board~~[Cabinet for Health Services]~~ which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health-care services in an appropriate geographical area;
- (14)~~(12)~~ "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and
- (15)~~(13)~~ "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

SECTION 2. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Board of Emergency Medical Services is created and shall consist of thirteen (13) members who are residents of Kentucky appointed by the Governor in conjunction with recognized state emergency medical services related organizations. Membership shall be made up of the following:

- (a) One (1) paramedic who works for a government agency but is not serving in an educational, management, or supervisory capacity;
- (b) One (1) emergency medical technician-basic who works for a government agency but is not serving in an educational, management, or supervisory capacity;
- (c) One (1) emergency medical technical-first responder who is not serving in an educational, management, or supervisory capacity;
- (d) One (1) physician having a primary practice in the delivery of emergency medical care selected from a list of ten (10) physicians submitted by the Kentucky Medical Association;
- (e) One (1) citizen having no direct involvement in the delivery of medical or emergency services;
- (f) One (1) emergency medical services educator from a Kentucky college or university that provides an emergency medical services educational program;
- (g) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;
- (h) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;
- (i) One (1) volunteer-staffed, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;
- (j) One (1) fire-service-based, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;
- (k) One (1) hospital administrator selected from a list of five (5) nominees submitted by the Kentucky Hospital Association;
- (l) One (1) basic life support, licensed Class I government-operated ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic; and
- (m) One (1) advanced life support, government-operated ambulance service administrator who is a certified emergency medical technician or a licensed paramedic.
- (2) The Governor shall appoint the members listed in paragraphs (a) to (g) of subsection (1) of this section for an initial term of three (3) years, and the Governor shall appoint the members listed in paragraph (h) to (m) of subsection (1) of this section for an initial term of four (4) years. Reappointments and subsequent new appointments shall be for a four (4) year term. No board member shall serve more than two (2) consecutive terms.
- (3) The board shall elect a chair by majority vote of the members present at its first annual meeting.
- (4) Members of the board and of all committees shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement. The board shall meet at least six (6) times each year.
- (5) The board shall:
 - (a) Exercise all of the administrative functions of the state in the regulation of the emergency medical services system and the practice of first responders, emergency medical technicians, paramedics, ambulance services, and training institutions;
 - (b) Issue, deny, suspend, limit, restrict, and revoke any licenses or certifications, and reprimand or place an individual with a license or certificate on probation;
 - (c) Appoint an executive director and fix the compensation. The executive director shall serve at the pleasure of the board and supervise all directives of the board;
 - (d) Appoint or contract with a physician and fix the compensation. The physician shall serve as the medical advisor;
 - (e) Appoint a general counsel and fix the compensation;
 - (f) Employ office, certified, and licensed personnel sufficient to carry out the statutory responsibilities of the board. Personnel assigned to regulate a specific classification of certified or licensed prehospital providers shall at a minimum be certified or licensed at the same level as the classification being regulated;
 - (g) Establish committees and subcommittees, who need not be members of the board, as necessary;
 - (h) Collect any fees established by the promulgation of administrative regulations;
 - (i) Investigate and hold hearings for any disciplinary proceedings in accordance with KRS Chapter 13B;
 - (j) Establish and impose fines against individuals or agencies governed by the board;
 - (k) Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly;

- (l) Maintain a program and provide technical assistance for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state;
- (m) Collect and analyze data for evaluation of emergency medical services in the Commonwealth;
- (n) Administer the Emergency Medical Services for Children Program; and
- (o) Establish minimum curriculum and standards for emergency medical services training.
- (6) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities. On the effective date of this Act, the board shall have custody of all the records relating to emergency medical services formerly maintained by the Cabinet for Health Services and the Kentucky Board of Medical Licensure. All unexpended funds under the control of the Cabinet for Health Services and the Kentucky Board of Medical Licensure on the effective date of this Act, that were derived from fees collected for certification of emergency medical services personnel shall be transferred to the board to be expended in the performance of the duties specified in KRS 311.652 to 311.658.

Section 3. KRS 211.952 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the functions of KRS 311.652 to 311.658, including, but not limited to:

- (1) ~~[The Cabinet for Health Services shall maintain a program for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state.]~~
- (2) ~~The Cabinet for Health Services shall establish and designate a single lead agency under the supervision and direction of the commissioner of public health which will carry out all administrative functions related to the planning, development, improvement, and expansion of emergency medical services systems throughout the state. This will include:~~
 - (a) ~~The training and certification of prehospital personnel;~~
 - (b) ~~The promulgation of standards and regulations for emergency medical services personnel;~~
 - (c) ~~The promulgation of administrative regulations for the }Licensing, inspecting[inspection], and regulating[regulation] of ambulance and medical first-response providers. The administrative regulations shall address specific requirements for:~~
 - (a) ~~[1-] Air ambulance providers, which provide basic or advanced life support services;~~
 - (b) ~~[2-] Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for[both] emergencies and scheduled ambulance transportation which is medically necessary;~~
 - (c) ~~[3-] Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;~~
 - (d) ~~[4-] Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care; and~~
 - (e) ~~[5-] Medical first-response providers, which[who] provide prehospital basic life support services, or advanced life support services, but do not transport patients;~~
- (2) ~~[(4)] Establishing, planning, and developing[development of] emergency medical services and trauma care systems;~~
- (3) ~~[(e)] Promulgating[Promulgation of] voluntary standards for trauma centers and other specialized emergency medical facilities;~~
 - ~~[(f)] Provision of funding and technical assistance as shall become available; and]~~
- (4) ~~[(e)] Establishing minimum data reporting requirements, including requirements specifically related to emergency medical services and trauma care of children, for ambulance providers and trauma centers[and other specialized emergency medical facilities] and collection and analysis of data related to the provision of emergency medical services and trauma care;[and]~~
- (5) ~~[(h)] Maintaining[Establishing] the Emergency Medical Services for Children Program with federal funds so designated plus any additional funds that may be appropriated by the General Assembly, or any other funds that may become available to the cabinet, including gifts, grants, or other sources;[-]~~
- (3) ~~Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.]~~
- (6) ~~[(4)] Developing[The cabinet shall promulgate administrative regulations and perform the necessary functions to carry out the purpose of this section including:~~
 - (a) ~~Delineation, by administrative order of the secretary, of the geographic boundaries of regional emergency medical services systems.~~

- (b) ~~Promulgation of administrative regulations providing for:~~
 - 1. ~~Composition of regional emergency medical services advisory boards to serve in an advisory capacity to the Kentucky Emergency Medical Services Council;~~
 - 2. ~~Terms of office of regional emergency medical services advisory board members;~~
 - 3. ~~Appointment of regional emergency medical services advisory board members; and~~
 - 4. ~~Such other matters relating to regional emergency medical services systems as may be necessary.~~
 - (c) ~~Provision of technical assistance to regional emergency medical services advisory boards, units of local government, and others in planning for the development, coordination, and monitoring of emergency medical services.~~
 - (d) ~~Development of~~ a statewide plan for the implementation of emergency medical services systems and trauma care systems within the Commonwealth of Kentucky ~~that~~^{which} specifically addresses the unique needs of rural areas;~~[-]~~
 - (7)(e) Issuing~~[Issuance of]~~ a format for the development of regional emergency medical services plans consistent with goals and standards included in the statewide emergency medical services plan.
 - (8)(f) Applying~~[Application]~~ for, receiving~~[receipt of]~~, and disposing~~[disposition]~~ of federal, state, or private funds by grant, appropriation, donation, or otherwise for emergency medical services programs, personnel, and equipment;~~[-]~~
 - (g) ~~Awarding of funds to regional emergency medical services systems to implement specific objectives delineated in regional emergency medical services plans, including assistance to local governments for their provision of ambulance service.~~
 - (9)(h) Developing~~[Development]~~, monitoring, and encouraging~~[encouragement]~~ off~~[-]~~ such other projects and programs ~~that~~^{which} may be of benefit to emergency medical services in the Commonwealth; and
 - (10) Establishing standards related to the training of emergency medical services training programs.
- Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.
- ~~[(i) Conducting verification inspections to ensure compliance with voluntary standards established by the cabinet for trauma centers, emergency departments, and specialized hospital-based services for which standards have been established by the cabinet for emergency medical services and trauma care systems.~~
 - (5) ~~The cabinet shall establish a Kentucky Emergency Medical Services Council which shall advise the cabinet on issues relating to the development, implementation, regulation, maintenance, and reimbursement of emergency medical services systems and providers. This council shall be broadly representative of individuals, providers, and public officials having expertise in emergency medical services. The council shall consult with the Kentucky Board of Medical Licensure to establish medically appropriate standards and protocols which will be utilized by emergency medical services personnel and to assist the Kentucky Board of Medical Licensure in meeting the requirements of KRS 311.654. The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.~~
 - (6) ~~Data and records generated and kept by the single emergency medical services administrative agency, the Kentucky Emergency Medical Services Council, the Emergency Medical Services for Children Advisory Committee, the Kentucky Emergency Medical Services for Children Program or their contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first response providers, and emergency medical facilities, shall be held confidential, shall not be subject to disclosure under KRS 61.805 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery; provided, however, that nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment which otherwise would be admissible or discoverable.~~
 - (7) ~~Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.]~~

Section 4. KRS 211.953 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The Kentucky General Assembly declares that the purpose of Section 5 of this Act~~[KRS 211.9531 and 211.9533]~~ is to establish a comprehensive emergency medical services system for children, as an integral part of Kentucky's overall emergency medical services and trauma care system, in order to provide children with access to comprehensive emergency~~[-]~~ ~~and critical care medical services, including preventive, prehospital, hospital, rehabilitation, and other posthospital~~ care. The General Assembly recognizes the contributions of the federally funded Emergency Medical Services for Children program in Kentucky and desires to continue and expand the activities initiated by this program. The General Assembly finds that coordination of emergency services, additional training of emergency medical services personnel, communication among service providers, and enhanced data collection efforts will provide children with access to skilled emergency care, decrease unnecessary deaths from injury, decrease the overall costs of health care, and provide information as to the quality of emergency medical care for children.

Section 5. KRS 211.9531 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

(1) ~~There is established within the department's lead agency for emergency medical services an Emergency Medical Services for Children Program.~~

(2) The ~~board~~~~[cabinet]~~ may hire a coordinator for the Emergency Medical Services for Children~~[EMSC]~~ Program ~~who shall be assigned to the department's lead agency for emergency medical services. The authorized personnel cap for the department may be increased to include the coordinator~~ and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2)~~(3)~~ The coordinator shall:

- (a) Implement and oversee the EMSC Program described in this section~~[, in consultation with the advisory committee established in Section 5 of this Act];~~ and
- (b) Serve as liaison for collaboration and coordination between the EMSC Program, the board, and other public and private organizations~~[, including the department's lead emergency medical services agency,]~~ the state traffic safety office, the maternal and child health program, the Medicaid department, the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3)~~(4)~~ The EMSC Program may include, but not be limited to, the establishment of the following:

- (a) ~~Guidelines for the approval of emergency medical services facilities for pediatric care, and designation of specialized regional pediatric critical care centers and pediatric trauma centers;~~
- (b) ~~Guidelines for referring children to the appropriate emergency medical facility;~~
- (c) ~~Guidelines for necessary out-of-hospital~~~~[prehospital and other pediatric emergency and critical care]~~ medical service equipment;
- (b)~~(d)~~ ~~Guidelines for developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care, or pediatric subspecialty care;~~
- (e) ~~Guidelines and protocols for out-of-hospital~~~~[prehospital and hospital facilities encompassing all levels of]~~ pediatric emergency medical services~~[, pediatric critical care, and pediatric trauma care];~~
- (f) ~~Guidelines for rehabilitation services for critically ill or injured children;~~
- (g) ~~A system for transferring critically ill or injured children between emergency medical facilities, services, and systems;~~
- (c)~~(h)~~ Assistance in the development and provision of~~[initial and continuing]~~ professional education programs for emergency medical services personnel~~[, which shall include training]~~ in the emergency care of infants and children;
- (d)~~(i)~~ ~~A public education program concerning the EMSC Program, including information on emergency access telephone numbers;~~
- (j) ~~The collection and analysis of statewide pediatric emergency and critical care medical services data from emergency medical facilities for the purpose of quality improvement by these facilities, subject to the confidentiality requirements of KRS 211.952(6);~~
- (k) ~~The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency medical services;~~
- (4) Coordination and cooperation between the EMSC Program and other public and private organizations interested or involved in emergency~~[and critical]~~ care for children, including those persons and organizations identified in subsection (2)~~(3)~~(b) of this section; and
- (e)~~(m)~~ The scope of activities carried out by the EMSC Program shall be commensurate with the availability of funds.

Section 6. KRS 211.954 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

A matching fund program is hereby created for the purpose of assisting local units of government~~[ambulance providers]~~ in the purchases of ambulances and equipment, provision of an adequate number of trained emergency medical services personnel, and provision of education for personnel. The fund shall consist of such moneys as may be appropriated by the General Assembly or may be obtained from other sources for the fund as provided in this section~~[and KRS 211.956]~~:

- (1) Application and justification of need for moneys from the fund shall be based upon the state emergency medical services plan's priorities;
- (2) Application for moneys from the fund may be made to the board~~[Cabinet for Health Services]~~ by any city, county,

ambulance taxing district, or regional emergency medical services system based upon guidelines established by the board~~[Cabinet for Health Services]~~;

- (3) Moneys from the fund will provide for up to a maximum of fifty percent (50%) of the actual cost of any ambulance or other item of equipment desired to be procured. No county, including all grants to entities within the county, shall receive more than twenty-five thousand five hundred dollars (\$25,500) from the fund per year;
- (4) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the recipient~~[city, county, or regional emergency medical services system]~~;
- (5) Funding periods shall coincide with the fiscal year as established by the board~~[Cabinet for Health Services]~~; and
- (6) Each ambulance or item of equipment purchased shall meet or exceed, if a standard has been set for the particular item of equipment, the standards set by the board~~[Cabinet for Health Services]~~.

Section 7. KRS 211.962 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

No person shall:

- (1) Hold himself out as certified pursuant to KRS 311.652 to 311.658~~[211.962 to 211.968]~~ nor use the title of emergency medical technician~~[initials "EMT"]~~ when he does not hold a current valid certification issued pursuant to KRS 311.652 to 311.658~~[211.962 to 211.968]~~; or
- (2) If certified, violate any provision of KRS 311.652 to 311.658~~[211.962 to 211.968]~~ or any rule or regulation, adopted by the board~~[Cabinet for Health Services]~~ relating to Section 8 of this Act~~[KRS 211.964]~~.

Section 8. KRS 211.964 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

- (1) The board~~[Cabinet for Health Services]~~ shall promulgate administrative regulations relating to emergency medical technicians. The regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. ~~[Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.]~~ No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.
- (2) Recertification programs shall be organized to include continuing education and in-service training approved by the board~~[cabinet]~~. The continuing education program shall be subject to the requirements of KRS 214.610(1).
- (3) Beginning the effective date of this Act, a new emergency medical technician shall, for initial certification, be certified using the requirements and testing established by the National Registry of Emergency Medical Technicians.
- (4) Beginning the effective date of this Act, a certified emergency medical technician who seeks recertification shall obtain recertification under the requirements established and maintained by the board. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year recertification period. The board shall also recertify any emergency medical technician who chooses to obtain recertification under the requirements established by the National Registry of Emergency Medical Technicians in lieu of the standards established by the board.
- ~~(5) [In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.~~
- ~~(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.~~
- ~~(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.~~
- ~~(6) Other than the requirements of KRS 214.610(1), the board~~[cabinet]~~ shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.~~
- ~~(6) [(7)] Other than the requirements of KRS 214.610(1), any person licensed~~[certified]~~ by the board~~[State Board of Medical~~~~

~~Licensure~~ as a paramedic shall be certified as an emergency medical technician by the ~~board~~~~[cabinet]~~. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that ~~the~~ paramedic ~~license~~~~[certification]~~ is issued or expires, and if a paramedic voluntarily gives up his ~~or her license~~~~[certification]~~ prior to the expiration of his ~~or her~~ paramedic ~~license~~~~[certification]~~, his ~~or her~~ emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to ~~be relicensed~~~~[recertify]~~ as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic ~~license~~~~[certification]~~, ~~complete the requirements for recertification~~~~[recertify]~~ as an emergency medical technician utilizing one (1) of the methods provided for in this section.

~~(7)(8)~~ A paramedic whose ~~license~~~~[certification]~~ as a paramedic is suspended, revoked, or denied by the ~~board~~~~[State Board of Medical Licensure]~~ shall have the same action taken automatically~~[by the cabinet]~~ with regard to his emergency medical technician certification.

Section 9. KRS 211.966 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The ~~board~~~~[secretary of the Cabinet for Health Services]~~ may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ~~licenses or~~ certificates, and for the renewal of ~~licenses or~~ certificates issued pursuant to KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~. All such fees, charges, or other moneys collected by the ~~board~~~~[cabinet]~~ under KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~ shall be paid into the State Treasury and credited to a trust and agency fund to be used by the ~~board~~~~[Cabinet for Health Services]~~ for carrying out the provisions of KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~.

Section 10. KRS 211.967 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As a condition of being issued a certificate as an emergency medical technician, the applicant shall have completed a ~~Cabinet for Health Services~~~~[cabinet]~~ approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 11. KRS 211.968 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

Nothing in KRS ~~311.652 to 311.658~~~~[211.962 to 211.968]~~ shall be construed to permit certification or utilization of any certified emergency medical technician for the purpose of such individual working full time with primary responsibility and duties limited to hospitals, physicians' offices, clinics, or other definitive care facilities, except~~[for certification or utilization of a person]~~ as an emergency medical technician trainee or as a full-time instructor of emergency medical technicians.

Section 12. KRS 211.990 is amended to read as follows:

- (1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.
- (2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.
- (3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.
- (4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.
- ~~(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.~~
- ~~(6)~~ A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.
- ~~(6)(7)~~ Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.
- ~~(7)(8)~~ A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.
- ~~(8)(9)~~ Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

~~(9)(10)~~ The penalties provided in subsections ~~(5)~~, (6), (7), and (8), ~~and (9)~~ of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

~~(10)(11)~~ Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). Each day of violation or noncompliance shall constitute a separate offense.

Section 13. KRS 216B.410 is amended to read as follows:

- (1) Each licensed ambulance provider and medical first response provider as defined in Section 3 of this Act~~KRS 211.952(2)~~ shall collect and provide to the Kentucky Board of Emergency Medical Services~~cabinet~~ run data and information required by the Kentucky Board of Emergency Medical Services~~cabinet~~ by administrative regulation.
- (2) The Kentucky Board of Emergency Medical Services~~cabinet~~ shall develop a run report form for the use of each class of ambulance provider and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider or medical first response provider may utilize any run form it chooses in lieu of or in addition to the Kentucky Board of Emergency Medical Services~~cabinet~~ developed run report form. However, the data captured on the run report form shall include at least that required by the administrative regulations promulgated pursuant to subsection (1) of this section.
- (3) An ambulance provider or medical first response provider ~~shall~~may report the required run report data and information by completing an annual report as established by the Kentucky Board of Emergency Medical Services~~sending copies of the completed run report forms to the cabinet~~ or by transmitting the required data and information to the cabinet in an electronic format. If the Kentucky Board of Emergency Medical Services~~cabinet~~ requires the use of a specific electronic format, it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.
- ~~(4)~~ ~~Each ambulance provider or medical first response provider shall submit its run reports or data summary reports in electronic format on the time schedule specified by the cabinet by administrative regulation.~~
- ~~(5)~~ The Kentucky Board of Emergency Medical Services~~cabinet~~ shall publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the board~~cabinet~~. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report shall be forwarded to the Governor and the General Assembly~~by the cabinet to the Kentucky Board of Medical Licensure~~.
- ~~(5)(6)~~ Ambulance provider and medical first response provider run report forms and the information transmitted electronically to the Kentucky Board of Emergency Medical Services~~cabinet~~ shall be confidential. No person shall make an unauthorized release of information on an ambulance run report form or medical first response run report form. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's run report form or the inspection or copying of the run report form. Any authorization for the release of information or for inspection or copying of a run report form shall be in writing.
- ~~(6)(7)~~ If a medical first response provider or ambulance provider does not use a paper form but collects patient data through electronic means, it shall have the means of providing a written run report that includes all required data elements to the medical care facility. A copy of the medical first response form or a summary of the run data and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the run report form that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their run report form or is unavailable to receive the form, that copy of the form shall be returned to the medical first response provider or ambulance provider and destroyed.
- ~~(7)(8)~~ All ambulance services shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:
 - (a) Employee records, including a resume of each employee's training and experience and evidence of current certification; and
 - (b) Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.
- ~~(8)~~ Data and records generated and kept by the board or its contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be held confidential, shall not be subject to disclosure under KRS 61.805 to 61.850 or KRS 61.870 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery. However, nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment that otherwise would be admissible or discoverable.

Section 14. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;
- (b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;
- (c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;
- (d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;
- (e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;
- (f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;
- (2) (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;
- (b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;
- (c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;
- (3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;
- (4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term; and
- (5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in Section 1 of this Act ~~KRS 211.9501~~. It shall not mean a motor vehicle equipped with a stretcher;
- (b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles; and
- (c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principle operation of which is confined to a specific county.

Section 15. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

- (1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;
- (2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:
 - (a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy,

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or mill;

- (b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;
- (c) For both the purposes described in paragraphs (a) and (b) of this subsection;
- (d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or
- (e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;
- (3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;
- (4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;
- (5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;
- (6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;
- (7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;
- (8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in Section 1 of this Act [KRS 211.950];
- (9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;
- (10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;
- (11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;
- (12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section; or
- (13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI.

Section 16. KRS 304.17A-580 is amended to read as follows:

- (1) Health benefit plans shall educate their insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.
- (2) All health benefit plans [using a defined network of health care providers] shall cover **emergency medical services and supplies** and emergency department screening and stabilization services both in-network and out-of-network without prior authorization for use consistent with the prudent layperson standard. **Reimbursement for supplies used by an ambulance provider during prehospital care for an ill or injured individual shall not be restricted to individuals transported by the**

ambulance provider.

- (3) Emergency department personnel shall contact a patient's primary care provider or health benefit plan, as appropriate, as quickly as possible to discuss follow-up and poststabilization care and promote continuity of care.
- (4) **Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies.**

SECTION 17. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each motor vehicle accident insurance company doing business in this Commonwealth shall reimburse a licensed ambulance service for the transportation of persons covered under a motor vehicle accident insurance policy issued by the company who are injured as a result of a motor vehicle accident. Reimbursement shall be paid for customary and reasonable services and supplies. Payment shall be made directly to the licensed ambulance service that rendered the services, upon submission of a billing by the ambulance service. There shall be no prerequisite that a person seek any type of approval before calling an ambulance to transport a person to a medical facility. The only test that may be applied by the insurance company is that a prudent lay person would believe that the person to be transported by the ambulance was in need of medical care.

Section 18. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties~~[for which they have been trained]~~ by emergency medical technicians~~[or medical emergency dispatchers]~~ certified **under KRS 311.652 to 311.658 or paramedics licensed under KRS 311.652 to 311.658**~~[by the Cabinet for Health Services]~~, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;
- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

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- (17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;
- (18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and
- (19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

SECTION 19. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

- (1) When the board is engaged in the investigation or discipline of a paramedic or emergency medical technician, or it is alleged that a paramedic or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as a paramedic or emergency medical technician, the paramedic or emergency medical technician, his or her employer, and the ambulance service's medical advisor shall be parties to the action and have the right to testify at any deposition, hearing, or other proceeding relating to the investigation or discipline of the paramedic or emergency medical technician.
- (2) The paramedic, emergency medical technician, his or her employer, and the ambulance service's medical advisor shall have the right to appeal any portion of a decision of the board that affects them to the Franklin Circuit Court.
- (3) The board shall investigate any complaint against a paramedic or emergency medical technician and make findings of fact and conclusions of law.
- (4) If it appears that the paramedic or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as a paramedic or emergency medical technician, the board shall hold a full hearing under KRS Chapter 13B to determine whether the violation occurred. If it is determined that a paramedic or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as a paramedic or emergency medical technician, the board may impose any of the sanctions provided in subsection (5) of this section. Any party to the complaint shall have the right to introduce the findings of fact and conclusions of law.
- (5) The board may use any one (1) or more of the following sanctions when disciplining any paramedic or emergency medical technician:
 - (a) Private reprimand that shall be shared with each of the paramedic's or emergency medical technician's employer and medical director;
 - (b) Public reprimand;
 - (c) Fines;
 - (d) Revocation of certification or licensure;
 - (e) Suspension of licensure until a time certain;
 - (f) Suspension until a certain act or acts are performed;
 - (g) Limitation of practice permanently;
 - (h) Limitation of practice until a time certain;
 - (i) Limitation of practice until a certain act or acts are performed; or
 - (j) Repassing a portion of the paramedic or emergency medical technician examination.

Section 20. KRS 311.652 is amended to read as follows:

No person shall:

- (1) Hold himself out as licensed~~certified~~ pursuant to KRS 311.652~~311.650~~ to 311.658 nor use the term "paramedic" when he does not hold a current valid license~~certification~~ issued pursuant to KRS 311.652~~311.650~~ to 311.658; or
- (2) If licensed~~certified~~, violate any provision of KRS 311.652~~311.650~~ to 311.658 or any rule or regulation, adopted by the board~~of Medical Licensure~~, relating to KRS 311.654.

Section 21. KRS 311.654 is amended to read as follows:

- (1) The Kentucky Board of Emergency Medical Services~~Licensure~~ shall promulgate administrative regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and licensure~~certification~~ of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of

licensed physicians; issuance, renewal, suspension, denial, and revocation of ~~licenses~~~~[certificates]~~, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

- (2) Relicensure programs shall be organized to include continuing education and in-service training approved by the board. The continuing education program shall be subject to the requirements of KRS 214.610(1)~~[Any continuing education required by the Board of Medical Licensure shall include a Cabinet for Health Services approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.]~~
- (3) ~~The Kentucky Board of Medical Licensure shall enter into an agreement with the Cabinet for Health Services whereby the cabinet's lead agency for emergency medical services shall carry out the day-to-day administration of this section under administrative regulations promulgated by the Board of Medical Licensure. The Kentucky Emergency Medical Services Council will provide advice and recommendations to the Kentucky Board of Medical Licensure related to the provisions of KRS 311.650 to 311.658.~~

Section 22. KRS 311.656 is amended to read as follows:

The board~~[of Medical Licensure]~~ may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ~~licenses~~~~[certificates]~~, and for the renewal of ~~licenses~~~~[certificates]~~ issued pursuant to KRS ~~311.652~~~~[311.650]~~ to 311.658. All such fees, charges or other moneys collected by the board~~[of Medical Licensure]~~ under KRS ~~311.652~~~~[311.650]~~ to 311.658 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the board~~[of Medical Licensure]~~ for carrying out the provisions of KRS ~~311.652~~~~[311.650]~~ to 311.658.

Section 23. KRS 311.658 is amended to read as follows:

- (1) At the discretion of the employer's medical advisor, a paramedic or emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics or the most recent national standard curriculum for emergency medical technicians-basic published by the United States Department of Transportation respectively. Any paramedic or emergency medical technician may perform any procedure authorized by the board. Any employer of a paramedic or emergency medical technician may prohibit any paramedic or any emergency medical technician from performing any procedure, even though that procedure may be authorized by the board or by statute.
- (2) Any paramedic may draw blood samples from a criminal defendant upon the request of a peace officer and the consent of the defendant, or without the consent of the defendant upon receipt of a court order requiring the procedure, if the paramedic is authorized to do so by his or her employer. The authorization shall be in writing and may be by general written policy of the employer and the service's medical director. The paramedic who drew the blood sample shall deliver the sample to the peace officer or other person specified by the court in a court order and shall testify in court with regard thereto upon service of a proper subpoena.
- (3) Paramedics shall be permitted to render services only~~[in emergency situations, and shall perform such services]~~ under supervision of a qualified and licensed physician~~[health practitioner]~~.

Section 24. KRS 311.660 is amended to read as follows:

- (1) When it appears that a person whom a paramedic who has successfully completed training in determination of death has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the paramedic or an emergency medical technician who has responded with or after the paramedic, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the paramedic may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.
- (2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.
- (3) Any paramedic course taught after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the board~~[of Medical Licensure]~~ by administrative regulation.
- (4) Any paramedic relicensed~~[recertified]~~ within the three (3)~~[two (2)]~~ years following July 15, 1998, shall successfully complete in-service training required by the board~~[of Medical Licensure]~~ by administrative regulation relating to determination of death and preservation of evidence. Any paramedic who does not successfully complete the required in-service training shall not be relicensed~~[recertified]~~.
- (5) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and licensure~~[certification]~~ as a paramedic shall be denied if the required evidence is not shown.

- (6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a registered nurse rendering care pursuant to KRS 314.181, prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.
- (7) The resuscitative efforts of a paramedic under the protocols authorized by this section shall not invoke the provisions of KRS 446.400.

Section 25. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
 - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
 - (a)
 - 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 - 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 - 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
 - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any person who violates KRS 311.652 or any rule or regulation of the Kentucky Board of Emergency Medical Services~~board of medical licensure~~ adopted pursuant to KRS 311.654 or Section 3 of this Act shall be guilty of a Class A misdemeanor.
- (22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (23) Any person who violates KRS 311.914 shall be guilty of a violation.
- (24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
- (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.
- (27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

Section 26. The following KRS sections are repealed:

- 211.9533 Emergency Medical Services for Children Advisory Committee.
- 211.9535 Biennial report on EMSC Program.
- 211.956 Matching fund program for providing trained emergency medical service personnel.
- 211.960 Title.
- 311.650 Definition.

Section 27. There is appropriated four million four hundred ten thousand dollars (\$4,410,000) for the 2000-2001 fiscal year and four million four hundred ten thousand dollars (\$4,410,000) for the 2001-2002 fiscal year out of the General Fund in the State Treasury for the purposes of funding the functions of the Kentucky Board of Emergency Medical Services and to provide grants to local units of government for emergency medical services.

HB 429, AN ACT relating to blood testing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.250 is amended to read as follows:

- (1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by,

or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV), hepatitis~~[A,] B[,]~~ and C viruses, and any other disease, if testing for that disease is recommended by the most current guidelines of the Centers for Disease Control and Prevention, and if testing for any of these conditions is recommended, then testing will be conducted as recommended by the Centers for Disease Control and Prevention~~[tuberculosis]~~.

- (2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.
- (3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.
- (4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.
- (5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

The Committee Substitute No. 1 to HB 429 is as follows:

HB 429, AN ACT relating to blood testing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.250 is amended to read as follows:

- (1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee,~~[or]~~ probationer, or patient or resident of any health facility owned or operated by the Commonwealth, or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV), hepatitis~~[A,] B[,]~~ and C viruses, and any other disease, if testing for that disease is recommended by the most current guidelines of the Centers for Disease Control and Prevention, and if testing for any of these conditions is recommended, then testing will be conducted as recommended by the Centers for Disease Control and Prevention~~[tuberculosis]~~.
- (2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.
- (3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.
- (4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.
- (5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

HB 448, AN ACT relating to rape crisis centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The Cabinet for Health Services shall designate one (1) nonprofit corporation in each area development district to serve as the regional rape crisis center. The designated agency shall serve as the regional planning authority for crisis

and advocacy services for victims of sexual assault in the district in which the center is located.

- (2) The rape crisis center shall retain the designation unless it has been rescinded by the cabinet based on an annual review of the center's performance or the annual plan and budget submitted by the center to the cabinet for funding for the next fiscal year.
- (3) A rape crisis center designated by the cabinet shall provide services that include, but are not limited to:
 - (a) Crisis counseling;
 - (b) Mental health and related support services;
 - (c) Advocacy;
 - (d) Consultation;
 - (e) Public education; and
 - (f) The provision of training programs for professionals.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding the provisions of KRS 210.410, the secretary of the Cabinet for Health Services or any other state or local government entity is hereby authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional rape crisis centers.
- (2) To be eligible for grants from any state government entity, a rape crisis center shall provide the services listed in subsection (3) of Section 1 of this Act and shall operate in a manner consistent with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) A rape crisis center designated by the cabinet shall establish a board consisting of at least fifteen (15) members. At least one (1) member shall represent each county located in the area development district served by the center.
- (2) Each rape crisis center shall:
 - (a) Act as the administering authority for the regional rape crisis center;
 - (b) Assess the availability and quality of services to victims of sexual assault within the district;
 - (c) Facilitate working relationships with other criminal justice, mental health, and other agencies that will improve the delivery of services to victims of sexual assault;
 - (d) Submit to the cabinet annually a plan and budget for services to be provided in the next fiscal year;
 - (e) Recruit and promote local financial support for the center from private and public sources; and
 - (f) Oversee and be responsible for the management of the rape crisis center in accordance with the plan and budget adopted by the board and administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

All client records, requests for services, and reports that directly or indirectly identify a client or former client of a rape crisis center are confidential and shall not be disclosed by any person except as provided by law.

Section 5. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed;
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;
- (4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars (\$1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;
- (5) "Cabinet" means the Cabinet for Health Services;
- (6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:
 - (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
 - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or

part thereof;

- (7) "Capital expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;
- (8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (9) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (10) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;
- (11) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (12) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;
- (13) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (14) "Nonclinically-related expenditures" means expenditures for:
 - (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
 - (b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:
 - 1. Parking facilities;
 - 2. Telecommunications or telephone systems;
 - 3. Management information systems;
 - 4. Ventilation systems;
 - 5. Heating or air conditioning, or both;
 - 6. Energy conservation; or
 - 7. Administrative offices;
- (15) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;
- (16) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- (17) "Record" means, as applicable in a particular proceeding:
 - (a) The application and any information provided by the applicant at the request of the cabinet;
 - (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

- (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
- (d) Any staff reports or recommendations prepared by or for the cabinet;
- (e) Any recommendation or decision of the cabinet;
- (f) Any testimony or documentary evidence adduced at a hearing;
- (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
- (h) Any other items required by administrative regulations promulgated by the cabinet;
- (18) "Secretary" means the secretary of the Cabinet for Health Services;
- (19) **"Sexual assault examination facility" means a licensed private or public health care facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health Services or the Cabinet for Families and Children, and that provides sexual assault examinations under Section 6 of this Act;**
- (20) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;
- ~~(21)~~~~(20)~~ "Substantial change in a health service" means:
 - (a) The addition of a health service for which there are review criteria and standards in the state health plan;
 - (b) The addition of a health service subject to licensure under this chapter; or
 - (c) The reduction or termination of a health service which had previously been provided in the health facility;
- ~~(22)~~~~(21)~~ "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;
- ~~(23)~~~~(22)~~ "Substantial change in a project" means a change made to a pending or approved project which results in:
 - (a) A substantial change in a health service, except a reduction or termination of a health service;
 - (b) A substantial change in bed capacity, except for reductions;
 - (c) A change of location; or
 - (d) An increase in costs greater than the allowable amount as prescribed by regulation;
- ~~(24)~~~~(23)~~ "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;
- ~~(25)~~~~(24)~~ "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;
- ~~(26)~~~~(25)~~ "To establish" means to construct, develop, or initiate a health facility;
- ~~(27)~~~~(26)~~ "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and
- ~~(28)~~~~(27)~~ "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 6. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, ~~and~~ KRS 530.020, 530.064, and 531.310.
- (3) **An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in Section 5 of this Act.**
- (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include, but not be limited to:
 - (a) Basic emergency room treatment and evidence gathering services; and

(b) Laboratory cultures and tests, as appropriate, to test for venereal disease of the victim.

~~(5)(3)~~ Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling will not include abortion counseling or referral information.

~~(6)(4)~~ Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.

~~(7)(5)~~ Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

~~(8)(6)~~ The examinations provided in accordance with~~required under~~ this section shall be paid for by the Office of the Attorney General at a rate to be determined by the Attorney General by administrative regulation. The state shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the Office of the Attorney General pursuant to KRS Chapter 13A. No charge shall be made to the victim for these examinations, either by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

Section 7. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" shall mean Kentucky Board of Nursing.
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.
- (3) "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.
- (5) "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.
- (6) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm.
 - (b) The maintenance of health or prevention of illness of others.
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications.
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.
- (7) "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including, but not limited to, the nurse anesthetist, nurse midwife, and nurse practitioner

pursuant to KRS 314.042.

- (8) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.
- (9) "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.
- (10) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
 - (d) Teaching, supervising, and delegating except as limited by the board.
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
- (11) "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.
- (12) "Continuing education" shall mean offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.
- (13) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.
- (14) "Sexual assault nurse examiner" shall mean a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400~~(4)(2)~~.

The Committee Substitute No. 1 to **HB 448** is as follows:

HB 448, AN ACT relating to rape crisis centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Cabinet for Health Services shall designate one (1) nonprofit corporation in each area development district to serve as the regional rape crisis center. The designated agency shall serve as the regional planning authority for crisis and advocacy services for victims of sexual assault in the district in which the center is located.*
- (2) *The rape crisis center shall retain the designation unless it has been rescinded by the cabinet based on an annual review of the center's performance or the annual plan and budget submitted by the center to the cabinet for funding for the next fiscal year.*
- (3) *A rape crisis center designated by the cabinet shall provide services that include, but are not limited to:*
 - (a) *Crisis counseling;*
 - (b) *Mental health and related support services;*
 - (c) *Advocacy;*

- (d) Consultation;
- (e) Public education; and
- (f) The provision of training programs for professionals.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding the provisions of KRS 210.410, the secretary of the Cabinet for Health Services or any other state or local government entity is hereby authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional rape crisis centers.
- (2) To be eligible for grants from any state government entity, a rape crisis center shall provide the services listed in subsection (3) of Section 1 of this Act and shall operate in a manner consistent with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) A rape crisis center designated by the cabinet shall establish a board consisting of at least fifteen (15) members. At least one (1) member shall represent each county located in the area development district served by the center.
- (2) Each rape crisis center shall:
 - (a) Act as the administering authority for the regional rape crisis center;
 - (b) Assess the availability and quality of services to victims of sexual assault within the district;
 - (c) Facilitate working relationships with other criminal justice, mental health, and other agencies that will improve the delivery of services to victims of sexual assault;
 - (d) Submit to the cabinet annually a plan and budget for services to be provided in the next fiscal year;
 - (e) Recruit and promote local financial support for the center from private and public sources; and
 - (f) Oversee and be responsible for the management of the rape crisis center in accordance with the plan and budget adopted by the board and administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

All client records, requests for services, and reports that directly or indirectly identify a client or former client of a rape crisis center are confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client records, requests for services, and reports relating to any rape crisis center for the limited purpose of monitoring the center, and the cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A that will set forth the process by which access to these documents will be gained, the nature of the monitoring that will take place, and the measures to be used to ensure confidentiality of the people identified in the records.

Section 5. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed; _
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;
- (4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars (\$1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;
- (5) "Cabinet" means the Cabinet for Health Services;
- (6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:
 - (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
 - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;
- (7) "Capital expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made

shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

- (8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (9) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (10) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;
- (11) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (12) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;
- (13) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (14) "Nonclinically-related expenditures" means expenditures for:
 - (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
 - (b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:
 - 1. Parking facilities;
 - 2. Telecommunications or telephone systems;
 - 3. Management information systems;
 - 4. Ventilation systems;
 - 5. Heating or air conditioning, or both;
 - 6. Energy conservation; or
 - 7. Administrative offices;
- (15) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;
- (16) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- (17) "Record" means, as applicable in a particular proceeding:
 - (a) The application and any information provided by the applicant at the request of the cabinet;
 - (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;
 - (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
 - (d) Any staff reports or recommendations prepared by or for the cabinet;
 - (e) Any recommendation or decision of the cabinet;

- (f) Any testimony or documentary evidence adduced at a hearing;
 - (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
 - (h) Any other items required by administrative regulations promulgated by the cabinet;
- (18) "Secretary" means the secretary of the Cabinet for Health Services;
- (19) **"Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health Services or the Cabinet for Families and Children, and that provides sexual assault examinations under Section 6 of this Act;**
- (20) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;
- ~~(21)~~~~(20)~~ "Substantial change in a health service" means:
- (a) The addition of a health service for which there are review criteria and standards in the state health plan;
 - (b) The addition of a health service subject to licensure under this chapter; or
 - (c) The reduction or termination of a health service which had previously been provided in the health facility;
- ~~(22)~~~~(21)~~ "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;
- ~~(23)~~~~(22)~~ "Substantial change in a project" means a change made to a pending or approved project which results in:
- (a) A substantial change in a health service, except a reduction or termination of a health service;
 - (b) A substantial change in bed capacity, except for reductions;
 - (c) A change of location; or
 - (d) An increase in costs greater than the allowable amount as prescribed by regulation;
- ~~(24)~~~~(23)~~ "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;
- ~~(25)~~~~(24)~~ "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;
- ~~(26)~~~~(25)~~ "To establish" means to construct, develop, or initiate a health facility;
- ~~(27)~~~~(26)~~ "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and
- ~~(28)~~~~(27)~~ "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.
- Section 6. KRS 216B.400 is amended to read as follows:
- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.
 - (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, ~~and~~ KRS 530.020, **530.064, and 531.310.**
 - (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in Section 5 of this Act.**
 - (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include, but not be limited to:**
 - (a) Basic emergency room treatment and evidence gathering services; and
 - (b) Laboratory cultures and tests, as appropriate, to test for venereal disease of the victim.
 - ~~(5)~~~~(3)~~ Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling will not include abortion counseling or referral information.
 - ~~(6)~~~~(4)~~ Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.

~~(7)(5)~~ Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

~~(8)(6)~~ The examinations provided in accordance with~~[required under]~~ this section shall be paid for by the Office of the Attorney General at a rate to be determined by the Attorney General by administrative regulation. The state shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the Office of the Attorney General pursuant to KRS Chapter 13A. No charge shall be made to the victim for these examinations, either by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

Section 7. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" shall mean Kentucky Board of Nursing.
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.
- (3) "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.
- (5) "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.
- (6) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm.
 - (b) The maintenance of health or prevention of illness of others.
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications.
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.
- (7) "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including, but not limited to, the nurse anesthetist, nurse midwife, and nurse practitioner pursuant to KRS 314.042.
- (8) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered

nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.

- (9) "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.
- (10) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
 - (d) Teaching, supervising, and delegating except as limited by the board.
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
- (11) "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.
- (12) "Continuing education" shall mean offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.
- (13) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.
- (14) "Sexual assault nurse examiner" shall mean a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4)(2).

HB 450, AN ACT relating to health insurance coverage for contraceptives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Covered person" means a policyholder, subscriber, certificate holder, enrollee, or other individual, who is participating in or receiving coverage under the health benefit plan; and***
- (b) *"Outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy.***
- (2) *A health benefit plan that provides benefits for prescription drugs or devices shall not exclude or restrict benefits to covered persons for any prescription contraceptive drug or device approved by the Federal Food and Drug Administration.***
- (3) *A health benefit plan that provides benefits for outpatient services provided by a health care provider shall not exclude or restrict outpatient contraceptive services for covered persons.***
- (4) *A health benefit plan shall not:***
 - (a) *Impose a deductible, coinsurance, other cost-sharing, or waiting period in relation to benefits for prescription contraceptive drugs or devices that is greater than that imposed for other prescription drugs or devices covered under a health benefit plan;***
 - (b) *Impose a deductible, coinsurance, other cost-sharing, or waiting period in relation to benefits for outpatient contraceptive services that is greater than that imposed for other outpatient services covered under a health benefit plan;***

- (c) Deny eligibility, continued eligibility, or enrollment or renewal coverage due to a person's use or potential use of devices or services covered in this section;
 - (d) Provide monetary payments or rebates to a person to encourage the person to accept less than the minimum coverage required in this section;
 - (e) Penalize, reduce, or limit the reimbursement of a health care provider because the provider prescribes or provides contraceptive drugs, devices, or services as covered in this section; or
 - (f) Provide financial or any other incentives to a health care provider to withhold contraceptive drugs, devices, or services from a person.
- (5) The requirements of this section shall apply to all health benefit plans issued, renewed, or delivered on and after the effective date of this Act.

HB 468, AN ACT relating to control of fraud and abuse in medical assistance programs under Title XIX of the Federal Social Security Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) If a provider is indicted for an offense against the Kentucky Medical Assistance Program under KRS Chapter 194 or 205, the Attorney General may commence a civil action in any Circuit Court with proper venue to enjoin the violation.
- (2) If a provider who has been indicted for an offense in connection with the Kentucky Medical Assistance Program is conveying, transferring, or otherwise disposing of property, or intends to convey, transfer, or otherwise dispose of property, obtained as a result of the offense, or property that is traceable to the offense, the Attorney General may commence a civil action in any Circuit Court with proper venue:
 - (a) To enjoin the conveying, transferring, or disposing of the property; or
 - (b) For a restraining order to prohibit any person or entity from withdrawing, transferring, removing, dissipating, or disposing of any property related to the offense or property of equivalent value.
- (3) A permanent or temporary injunction or restraining order shall be granted without bond.
- (4) The court shall proceed as soon as practicable to the hearing and determination of the action, and may, at any time before the final determination, enter a restraining order or, upon petition, a writ of prohibition, or take any other action as is warranted to prevent a continuing injury to the Commonwealth or to any person or class of persons for whose protection the action is brought. A proceeding under this section shall be governed by the Kentucky Rules of Civil Procedure, except that discovery is governed by the Kentucky Rules of Criminal Procedure and the Kentucky Rules of Evidence.

The Committee Substitute No. 1 to **HB 468** is as follows:

HB 468, AN ACT relating to control of fraud and abuse in medical assistance programs under Title XIX of the Federal Social Security Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) If a provider is indicted for an offense against the Kentucky Medical Assistance Program under KRS Chapter 194A or 205, the Attorney General may commence a civil action in any Circuit Court with proper venue to enjoin the violation.
- (2) If a provider who has been indicted for an offense in connection with the Kentucky Medical Assistance Program is conveying, transferring, or otherwise disposing of property, or intends to convey, transfer, or otherwise dispose of property, obtained as a result of the offense, or property that is traceable to the offense, the Attorney General may commence a civil action in any Circuit Court with proper venue:
 - (a) To enjoin the conveying, transferring, or disposing of the property; or
 - (b) For a restraining order to prohibit any person or entity from withdrawing, transferring, removing, dissipating, or disposing of any property related to the offense or property of equivalent value.
- (3) A permanent or temporary injunction or restraining order shall be granted without bond.
- (4) The court shall proceed as soon as practicable to the hearing and determination of the action, and may, at any time before the final determination, enter a restraining order or, upon petition, a writ of prohibition, or take any other action as is warranted to prevent a continuing injury to the Commonwealth or to any person or class of persons for whose protection the action is brought. A proceeding under this section shall be governed by the Kentucky Rules of Civil Procedure, except that discovery is governed by the Kentucky Rules of Criminal Procedure and the Kentucky Rules of Evidence.

HB 497, AN ACT relating to traumatic brain injury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.470 is amended to read as follows:

As used in KRS 211.470 to 211.478:

- (1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to KRS 211.472;
- (2) "Cabinet" means the Cabinet for Health Services~~(Human Resources)~~;
- (3) "Traumatic brain injury" means a partial or total disability caused by injury to the central nervous system from physical trauma, damage to the central nervous system from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute medical clinical incidents resulting in impaired cognitive abilities or impaired physical functioning. "Traumatic brain injury" does not include:
 - (a) Strokes that can be treated in nursing facilities providing routine rehabilitation services;
 - (b) Spinal cord injuries for which there are no known or obvious injuries to the intracranial~~(intercranial)~~ central nervous system;
 - (c) Progressive dementias and other mentally impairing conditions;
 - (d) Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;
 - (e) Mental retardation and birth defect related disorders of long standing nature; or
 - (f) Neurological degenerative, metabolic, and other medical conditions of a chronic, degenerative nature.
- (4) "Trust fund" means the traumatic brain injury trust fund created pursuant to KRS 211.476.

Section 2. KRS 211.472 is amended to read as follows:

- (1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the purpose of administering the trust fund. The board shall be composed of nine (9) members including the secretary of the Cabinet for Health Services~~(Human Resources)~~ or the secretary's designee, the executive director of the Brain Injury Association of Kentucky or the executive director's designee, the state medical epidemiologist, and the following members, to be appointed by the Governor:
 - (a) One (1) member shall be a neurosurgeon;
 - (b) One (1) member shall be a neuropsychologist or psychiatrist;
 - (c) One (1) member shall be a rehabilitation specialist;
 - (d) One (1) member shall be a social worker experienced in working with brain-injured individuals; and
 - (e) Two (2) members shall be family members of or individuals with a brain injury.
- (2) Board members shall not be compensated for serving, but shall be reimbursed for ordinary travel expenses, including meals and lodging incurred in the performance of their duties.
- (3) The terms of appointed board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:
 - (a) Two (2) on June 30, 2000;
 - (b) Two (2) on June 30, 2001; and
 - (c) Two (2) on June 30, 2002.
- (4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two (2) consecutive four (4) year terms shall not be reappointed for four (4) years after completion of those terms.
- (5) A majority of the full authorized membership shall constitute a quorum.
- (6) The board shall elect, by a majority vote, a director who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The director shall be elected or reelected for each calendar year.
- (7) The board may establish any organizational structure it determines is necessary to accomplish its functions and duties, including the hiring of any necessary support personnel. The administrative costs of the board shall be limited to three percent (3%) of the proceeds from the trust fund.
- (8) Meetings of the board shall be held at least twice a year but may be held more frequently, as deemed necessary, subject to call by the director or by the request of a majority of the board members.
- (9) The board shall be attached to the cabinet for administrative purposes.

Section 3. KRS 211.474 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations necessary to carry out the provisions of KRS 211.470 to 211.478;

- (2) Formulate policies and procedures for determining individual eligibility for assistance from the trust fund in accordance with the following guidelines:
- (a) The trust fund shall serve as a funding source of last resort for residents of the Commonwealth of Kentucky. To be eligible for assistance from the trust fund, an individual must have exhausted all other funding sources that cover the type of services sought through the trust fund. Individuals who have continuing health insurance benefits, including Medicaid, may access the trust fund for services that are needed but not covered by insurance or any other funding source. Individuals who qualify for institutional care through Medicaid shall not qualify for services through the trust fund;
 - (b) All individuals receiving assistance from the fund shall receive case management services;
 - (c) Expenditures on behalf of any one (1) brain-injured individual may not exceed fifteen thousand dollars (\$15,000) for any twelve (12) month period, and may not exceed a lifetime maximum of sixty thousand dollars (\$60,000). At its discretion and subject to fund availability, the board may waive the expenditure or time limitations or both in special circumstances;
 - (d) Services covered by the trust fund shall include:
 - 1. Case management;
 - 2. Community residential services;
 - 3. Structured day program services;
 - 4. Psychological and mental health services;
 - 5. Prevocational services;
 - 6. Supported employment;
 - 7. Companion services;
 - 8. Respite care;
 - 9. Occupational therapy; and
 - 10. Speech and language therapy; ~~and~~
 - ~~(e) Covered services shall not include institutionalization, hospitalization, or environmental modifications, special medical equipment and supplies, medications, and behavioral programs;~~
- (3) Establish a confidential medical registry for traumatic brain and spinal cord injuries occurring in the Commonwealth of Kentucky, or to residents of the Commonwealth of Kentucky.
- (a) The board may promulgate administrative regulations requiring licensed or certified professionals or health services providers to report the occurrence of brain and spinal cord injuries, relevant medical and epidemiological information about the injuries, and other information describing the circumstances of the injury to the board or its designated agent. The reporting of data by licensed hospitals under this section shall be limited to that which is reported to the cabinet ~~for Human Resources~~ pursuant to KRS 216.2920 to 216.2929 and the board shall obtain this data from the cabinet ~~for Human Resources~~. Each licensed hospital shall grant the board, upon presentation of proper identification, access to the medical records of patients with reportable brain and spinal cord injuries for the sole purpose of collecting additional information that is not available in the data obtained from the cabinet ~~for Human Resources~~. All costs associated with copying medical records shall be borne by the board. No liability of any kind shall arise or be enforced against any licensed hospital or hospital employee for providing the board access to a patient's medical record.
 - (b) The board and its designated agent, if one is appointed, shall observe the same confidentiality requirements established for the Kentucky birth surveillance registry in KRS 211.670;
- (4) Investigate the needs of brain-injured individuals and identify gaps in current services;
- (5) Assist the cabinet in developing programs for brain-injured individuals;
- (6) Monitor and evaluate services provided by the trust fund; and
- (7) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 1 of each year summarizing the activities of the board and the trust fund.

The Committee on Appropriations and Revenue reported **HB 295**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 141**, with Committee Substitute attached thereto, **HB 206**, with Committee Substitute attached thereto, **HB 406**, with Committee Substitute attached thereto, and **HJR 73**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 141, AN ACT relating to police radios.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 432.570 is amended to read as follows:

- (1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers. It shall be unlawful for any car, automobile, or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for the car, to have, or be equipped with the sets or apparatus even though the car is owned by an officer. This section shall not apply to any automobile or vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the Federal Communications Commission or other federal agency having the authority to license same. Nothing in this section shall preclude a probation and parole officer employed by the Department of Corrections from carrying on his person or in a private vehicle while conducting his official duties an authorized, state-issued portable radio apparatus capable of transmitting or receiving signals.
- (2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars (\$50) and not exceeding five hundred dollars (\$500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.
- (3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited, or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited, or escheated as above provided without a conviction of the person charged with violating this section.
- (4) Nothing contained in this section shall prohibit the possession of a radio by:
 - (a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;
 - (b) A commercial or educational radio or television station, licensed by the Federal Communications Commission, at its place of business; or
 - (c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers; emergency management agency personnel authorized in writing by the director of the division of emergency management (for state personnel) or chief executive of the city or county (for their respective personnel); a person holding a valid license issued by the Federal Communications Commission in the amateur radio service; peace officers authorized in writing by the head of their law enforcement agency, Commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.
- (5) ***The provisions of this section shall not apply to a paid or volunteer member of a fire department or a paid or volunteer member of a public ambulance service licensed in Kentucky who has been given permission in writing by the chief of the fire department or the director of the ambulance service to possess a radio capable of receiving on a frequency allocated to a police department or law enforcement agency, whether the radio is in a vehicle or not.***
- (6) The secretary of the Finance and Administration Cabinet is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other nonpolice persons for utilization in the N.O.A.A. weather radio system.

The Committee Substitute No. 1 to **HB 141** is as follows:

HB 141, AN ACT relating to police radios.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 432.570 is amended to read as follows:

- (1) It shall be unlawful for any person except a member of a police department or police force or an official with written

authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers. It shall be unlawful for any car, automobile, or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for the car, to have, or be equipped with the sets or apparatus even though the car is owned by an officer. This section shall not apply to any automobile or vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the Federal Communications Commission or other federal agency having the authority to license same. Nothing in this section shall preclude a probation and parole officer employed by the Department of Corrections from carrying on his person or in a private vehicle while conducting his official duties an authorized, state-issued portable radio apparatus capable of transmitting or receiving signals.

- (2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars (\$50) and not exceeding five hundred dollars (\$500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.
- (3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited, or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited, or escheated as above provided without a conviction of the person charged with violating this section.
- (4) Nothing contained in this section shall prohibit the possession of a radio by:
 - (a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;
 - (b) A commercial or educational radio or television station, licensed by the Federal Communications Commission, at its place of business; or
 - (c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers; emergency management agency personnel authorized in writing by the director of the division of emergency management (for state personnel) or chief executive of the city or county (for their respective personnel); a person holding a valid license issued by the Federal Communications Commission in the amateur radio service; peace officers authorized in writing by the head of their law enforcement agency, Commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.
- (5) The provisions of this section shall not apply to a paid or volunteer member of a fire department or a paid or volunteer member of a public ambulance service licensed in Kentucky who has been given permission in writing by the chief of the fire department and the chief of each law enforcement agency whose frequency is to be monitored, or the director of the ambulance service and the chief of each law enforcement agency whose frequency is to be monitored, to possess a radio capable of receiving on a frequency allocated to a police department or law enforcement agency, whether the radio is in a vehicle or not.
- (6) The secretary of the Finance and Administration Cabinet is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other nonpolice persons for utilization in the N.O.A.A. weather radio system.

HB 206, AN ACT relating to the National Guard Tuition Award Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.5169 is amended to read as follows:

Upon certification by the Department of Military Affairs that the member is eligible, the Kentucky Higher Education Assistance Authority shall, to the extent that funds have been appropriated and are available to the National Guard Tuition Award Program, pay to the educational institution an amount up to or equal to the in-state tuition costs of full-time or part-time study.

The Committee Substitute No. 1 to **HB 206** is as follows:

HB 206, AN ACT relating to the National Guard Tuition Award Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.5169 is amended to read as follows:

Upon certification by the Department of Military Affairs that the member is eligible, the Kentucky Higher Education Assistance Authority shall, to the extent that funds have been appropriated and are available to the National Guard Tuition Award Program, pay to the educational institution: ~~[an amount equal to the in-state tuition costs of full-time or part-time study.]~~

- (1) For all first semester students each year, an amount equal to the full in-state tuition costs of full-time or part-time study; and
- (2) For all second semester students each year, an amount to be determined by the department which compares the projected required amount needed to support all priorities selected for payment as promulgated in administrative regulations with the total funding available, and arrives at an appropriate percentage of full in-state tuition costs of full-time or part-time study that will ensure that all applicants receive an equal percentage of funds available, up to full tuition cost. The historical percentage of awards not used compared to the funds authorized per semester shall also be used in this determination.

HB 406, AN ACT relating to veterans' nursing homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.355 is amended to read as follows:

- (1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide long-term care to veterans who are residents of Kentucky.
- (2) The Kentucky state veterans' nursing homes shall be attached to the Finance and Administration Cabinet. The Finance and Administration Cabinet may promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs may seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.
- (4) In addition to the Kentucky Veterans' Center in Wilmore, Kentucky and the two (2) veterans' nursing homes authorized by KRS 216B.021(1), the first of any additional veterans' nursing homes constructed in Kentucky shall be located in Jefferson County.

Section 2. KRS 216B.021 is amended to read as follows:

The General Assembly hereby approves and authorizes the construction and operation of two (2) one hundred twenty (120) bed nursing homes for veterans, one (1) in western Kentucky and the other in eastern Kentucky.

The Committee Substitute No. 1 to **HB 406** is as follows:

HB 406, AN ACT relating to veterans' nursing homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.355 is amended to read as follows:

- (1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide long-term care to veterans who are residents of Kentucky.
- (2) The Kentucky state veterans' nursing homes shall be attached to the Finance and Administration Cabinet. The Finance and Administration Cabinet may promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs may seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.
- (4) In addition to the Kentucky Veterans' Center in Wilmore, Kentucky and the two (2) veterans' nursing homes authorized by KRS 216B.021, the first of any additional veterans' nursing homes constructed in Kentucky shall be located in Hardin County, and the second shall be located in Jefferson County.

Section 2. KRS 216B.021 is amended to read as follows:

The General Assembly hereby approves and authorizes the construction and operation of two (2) one hundred twenty (120) bed nursing homes for veterans, one (1) in western Kentucky and the other in eastern Kentucky.

Section 3. If 2000 Regular Session House Bill 139 becomes law, Section 1 of this Act shall be codified into KRS Chapter

HJR 73, A JOINT RESOLUTION creating a Task Force on Senior Citizens and the Workforce, providing for the membership thereof, and specifying activities and responsibilities.

WHEREAS, the population of Kentucky aged 55-75 will grow nearly four times greater than the state's population aged 25-55 (46 percent to 12 percent) during the period 1990 to 2010; and

WHEREAS, the ratio of Kentuckians between ages 25-55 to Kentuckians aged 55 and older will decline by the year 2010 to 1.6:1 from its 1990 level of 2:1, with the disparity estimated to grow through the year 2025; and

WHEREAS, a full complement of skilled workers in the state's workforce is necessary for a healthy economy and successful economic development; and

WHEREAS, a strong ratio of workers to nonworkers is necessary to provide adequate financial support for programs addressing the retired and elderly; and

WHEREAS, senior citizens represent a reservoir of talent that must be retained in the workforce; and

WHEREAS, there is a trend both nationally and in the Commonwealth for workers to retire at an ever-increasing younger age; and

WHEREAS, a substantial number of senior citizens demonstrate an interest in remaining in the workforce, but under different schedules and in different jobs;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby created a Task Force on Senior Citizens and the Workforce.

Section 2. The Task Force on Senior Citizens and the Workforce shall be composed of the following 18 members:

(1) Six members appointed by the Governor. The members may be employees of the Executive Branch of state government or may be at-large members;

(2) Six legislative members (three Representatives and three Senators) appointed by the Speaker of the House and the President of the Senate, respectively; and

(3) Six at-large members appointed by the Legislative Research Commission. In making the appointments the Commission shall consult with organizations representing labor, management, senior citizens, and retired persons, and with the state's universities, community and technical colleges, and local governments. The Commission shall coordinate its appointments with the at-large appointments of the Governor.

Section 3. The Task Force on Senior Citizens and the Workforce shall:

(1) Identify the age characteristics of Kentucky's present and future workforce;

(2) Examine the role of senior citizens in the state's present and future workforce;

(3) Identify the accommodations and incentives necessary to attract and retain senior citizens in the workforce;

(4) Determine the needs of senior citizens to remain productive members of the workforce;

(5) Evaluate the ability of existing programs to attract and retain senior citizens in the workforce, including those intended to provide the necessary education to qualify for entry or retention in the workforce;

(6) Recommend improvements in existing programs and the creation of new programs, if indicated, addressing senior citizens in the workforce, including programs through which prospective employers can identify and access qualified senior citizens; and

(7) Promote public awareness of the value of senior citizens in the workforce and initiate dialogue between citizens and policymakers in this regard.

Section 4. The Task Force on Senior Citizens and the Workforce shall be authorized, subject to the approval by the Legislative Research Commission, to conduct meetings throughout the state and to sponsor a conference for the purpose of gaining and exchanging information and publicizing the activities of the Task Force.

Section 5. Co-chairs of the Task Force on Senior Citizens and the Workforce shall be appointed by the Legislative Research Commission from among the legislative members of the Task Force.

Section 6. The Task Force on Senior Citizens and the Workforce shall submit its findings and recommendations to the Governor and the Legislative Research Commission by September 30, 2001.

Section 7. Staff services for this task force shall be furnished by the Legislative Research Commission, with officers and agencies of the Executive Branch providing any assistance that may be requested by the Commission or its Director.

The Committee Substitute No. 1 to **HJR 73** is as follows:

HJR 73, A JOINT RESOLUTION creating a Task Force on Senior Citizens and the Workforce, providing for the membership thereof, and specifying activities and responsibilities.

WHEREAS, the population of Kentucky aged 55-75 will grow nearly four times greater than the state's population aged 25-55 (46 percent to 12 percent) during the period 1990 to 2010; and

WHEREAS, the ratio of Kentuckians between ages 25-55 to Kentuckians aged 55 and older will decline by the year 2010 to 1.6:1 from its 1990 level of 2:1, with the disparity estimated to grow through the year 2025; and

WHEREAS, a full complement of skilled workers in the state's workforce is necessary for a healthy economy and successful economic development; and

WHEREAS, a strong ratio of workers to nonworkers is necessary to provide adequate financial support for programs addressing the retired and elderly; and

WHEREAS, senior citizens represent a reservoir of talent that must be retained in the workforce; and

WHEREAS, there is a trend both nationally and in the Commonwealth for workers to retire at an ever-increasing younger age; and

WHEREAS, a substantial number of senior citizens demonstrate an interest in remaining in the workforce, but under different schedules and in different jobs;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby created a Task Force on Senior Citizens and the Workforce.

Section 2. The Task Force on Senior Citizens and the Workforce shall be composed of the following 18 members:

(1) Six members appointed by the Governor. The members may be employees of the Executive Branch of state government or may be at-large members;

(2) Six legislative members (three Representatives and three Senators) appointed by the Speaker of the House and the President of the Senate, respectively; and

(3) Six at-large members appointed by the Legislative Research Commission. In making the appointments the Commission shall consult with organizations including, but not limited to, organizations representing labor, management, senior citizens, and retired persons, and with the state's universities, community and technical colleges, and local governments. The Commission shall coordinate its appointments with the at-large appointments of the Governor.

Section 3. The Task Force on Senior Citizens and the Workforce shall:

(1) Identify the age characteristics of Kentucky's present and future workforce;

(2) Examine the role of senior citizens in the state's present and future workforce;

(3) Identify the accommodations and incentives necessary to attract and retain senior citizens in the workforce;

(4) Determine the needs of senior citizens to remain productive members of the workforce;

(5) Evaluate the ability of existing programs to attract and retain senior citizens in the workforce, including those intended to provide the necessary education to qualify for entry or retention in the workforce;

(6) Recommend improvements in existing programs and the creation of new programs, if indicated, addressing senior citizens in the workforce, including programs through which prospective employers can identify and access qualified senior citizens; and

(7) Promote public awareness of the value of senior citizens in the workforce and initiate dialogue between citizens and policymakers in this regard.

Section 4. The Task Force on Senior Citizens and the Workforce shall be authorized, subject to the approval by the Legislative Research Commission, to conduct meetings throughout the state and to sponsor a conference for the purpose of gaining and exchanging information and publicizing the activities of the Task Force.

Section 5. Co-chairs of the Task Force on Senior Citizens and the Workforce shall be appointed by the Legislative Research Commission from among the legislative members of the Task Force.

Section 6. The Task Force on Senior Citizens and the Workforce shall submit its findings and recommendations to the Governor and the Legislative Research Commission by September 30, 2001.

Section 7. Staff services for this task force shall be furnished by the Legislative Research Commission, with officers and agencies of the Executive Branch providing any assistance that may be requested by the Commission or its Director.

The Committee on State Government reported **HB 392**, with Committee Substitute attached thereto, **HB 476**, **HB 491**, with Committee Substitute attached thereto, **HCR 12**, and **HCR 81** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 392, AN ACT relating to the Kentucky lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.110 is amended to read as follows:

- (1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.
- (2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:
 - (a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable. Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.
 - (b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.
 - (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.
 - (d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.
 - (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty-five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty-five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
 - (f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
- (3) Any unclaimed prize money may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated by the General Assembly directly from the corporation for any public purpose. For each fiscal ~~year~~~~years 1998-99 and 1999-00~~, any unclaimed prize money in excess of six million dollars (\$6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710.
- (4) The corporation is discharged of all liability upon payment of a prize.
- (5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:
 - (a) Any member of the board of directors, officers, or employees of the corporation;
 - (b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or
 - (c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

Section 2. KRS 198A.715 is amended to read as follows:

- (1) The administering agency for the trust fund shall be the Kentucky Housing Corporation, which shall use moneys from the

trust fund to make, or participate in the making, of loans or grants for the eligible activities described in this section. Loans or grants shall be made upon the determination by the corporation that the loan or grant shall be used to create new sources of funding, or to supplement existing sources of funding for eligible activities, and shall not be used to replace existing or available funds.

- (2) Activities eligible for funding shall include:
 - (a) Provision of matching funds for federal housing dollars requiring a local or state match including, but not limited to, the National Affordable Housing Act of 1990;
 - (b) Acquisition of housing units for the purpose of preservation or conversion as very low-income housing;
 - (c) New construction or rehabilitation of very low income housing units;
 - (d) Matching funds for technical assistance directly related to providing housing for persons pursuant to KRS 198A.700 to 198A.730; and
 - (e) Administrative costs for housing assistance programs or organizations eligible for funding pursuant to subsection (3) of this section, if the grants or loans will substantially increase the recipient's access to housing funds other than those available under KRS 198A.700 to 198A.730.
- (3) Organizations eligible for funding from the trust fund include local governments, local government housing authorities, nonprofit organizations, and regional or statewide housing assistance organizations.
- (4) Housing units provided to very low-income persons or families pursuant to KRS 198A.700 to 198A.730, shall be deed-restricted under the following conditions:
 - (a) Rental housing shall be deed-restricted for a minimum of thirty (30) years. Amendments may be granted by the board of directors of the corporation on a case-by-case basis. Investment from the trust fund into a specific housing type shall revert to like housing for very low-income persons.
 - (b) Single-family units or units for sale shall be deed restricted for a minimum of five (5) years.
- (5) In the development of housing pursuant to KRS 198A.700 to 198A.730, displacement of very low-income persons shall not be permitted unless the project shall pay all reasonable relocation costs as defined by the board of directors of the corporation.
- (6) There shall not be discrimination in the sale or rental, or otherwise making available or denying, a dwelling funded under KRS 198A.700 to 198A.730 to any buyer or renter because of race, religion, sex, familial status, disability, or national origin.
- (7) In the event that the corporation chooses to use trust fund dollars with or as a match to the Federal Home Investment Partnership Program or other federal programs, the strictest affordability requirements shall apply.
- (8) Trust fund dollars shall be contributed permanently to a project, except when serving as a match for federal housing programs that require all funds to be contributed permanently to the federal program. All repayment, interest, or other return on the investment of trust fund dollars are required to be returned to the trust fund and used for eligible trust fund activities in accordance with the requirements of KRS 198A.700 to 198A.730. Trust fund dollars invested in a project with federal dollars requiring a permanent contribution shall be recaptured to the federal program account.
- (9) **The Kentucky Housing Corporation shall report monthly to the Capital Project and Bond Oversight Committee on how the money transferred from the Kentucky Lottery Corporation's unclaimed prize account under KRS 154A.110(3) has been utilized. The corporation shall also make an annual report to the Legislative Research Commission on the disposition of the Kentucky Lottery Corporation's unclaimed prize money for each fiscal year.**

The Committee Substitute No. 1 to **HB 392** is as follows:

HB 392, AN ACT relating to the Kentucky lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.110 is amended to read as follows:

- (1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.
- (2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:
 - (a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable. Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death.

Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.

- (b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.
 - (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.
 - (d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.
 - (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty-five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty-five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
 - (f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
- (3) Any unclaimed prize money may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated by the General Assembly directly from the corporation for any public purpose. For ~~each fiscal year years 1998-99 and 1999-00~~, any unclaimed prize money in excess of six million dollars (\$6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710.
- (4) The corporation is discharged of all liability upon payment of a prize.
- (5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:
- (a) Any member of the board of directors, officers, or employees of the corporation;
 - (b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or
 - (c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

Section 2. KRS 198A.715 is amended to read as follows:

- (1) The administering agency for the trust fund shall be the Kentucky Housing Corporation, which shall use moneys from the trust fund to make, or participate in the making, of loans or grants for the eligible activities described in this section. Loans or grants shall be made upon the determination by the corporation that the loan or grant shall be used to create new sources of funding, or to supplement existing sources of funding for eligible activities, and shall not be used to replace existing or available funds.
- (2) Activities eligible for funding shall include:
 - (a) Provision of matching funds for federal housing dollars requiring a local or state match including, but not limited to, the National Affordable Housing Act of 1990;
 - (b) Acquisition of housing units for the purpose of preservation or conversion as very low-income housing;
 - (c) New construction or rehabilitation of very low income housing units;
 - (d) Matching funds for technical assistance directly related to providing housing for persons pursuant to KRS 198A.700 to 198A.730; and

- (e) Administrative costs for housing assistance programs or organizations eligible for funding pursuant to subsection (3) of this section, if the grants or loans will substantially increase the recipient's access to housing funds other than those available under KRS 198A.700 to 198A.730.
- (3) Organizations eligible for funding from the trust fund include local governments, local government housing authorities, nonprofit organizations, and regional or statewide housing assistance organizations.
- (4) Housing units provided to very low-income persons or families pursuant to KRS 198A.700 to 198A.730, shall be deed-restricted under the following conditions:
 - (a) Rental housing shall be deed-restricted for a minimum of thirty (30) years. Amendments may be granted by the board of directors of the corporation on a case-by-case basis. Investment from the trust fund into a specific housing type shall revert to like housing for very low-income persons.
 - (b) Single-family units or units for sale shall be deed restricted for a minimum of five (5) years.
- (5) In the development of housing pursuant to KRS 198A.700 to 198A.730, displacement of very low-income persons shall not be permitted unless the project shall pay all reasonable relocation costs as defined by the board of directors of the corporation.
- (6) There shall not be discrimination in the sale or rental, or otherwise making available or denying, a dwelling funded under KRS 198A.700 to 198A.730 to any buyer or renter because of race, religion, sex, familial status, disability, or national origin.
- (7) In the event that the corporation chooses to use trust fund dollars with or as a match to the Federal Home Investment Partnership Program or other federal programs, the strictest affordability requirements shall apply.
- (8) Trust fund dollars shall be contributed permanently to a project, except when serving as a match for federal housing programs that require all funds to be contributed permanently to the federal program. All repayment, interest, or other return on the investment of trust fund dollars are required to be returned to the trust fund and used for eligible trust fund activities in accordance with the requirements of KRS 198A.700 to 198A.730. Trust fund dollars invested in a project with federal dollars requiring a permanent contribution shall be recaptured to the federal program account.
- (9) The Kentucky Housing Corporation shall report semiannually to the Interim Joint Committee on Appropriations and Revenue on how the money transferred from the Kentucky Lottery Corporation's unclaimed prize account under KRS 154A.110(3) has been utilized. The corporation shall also make an annual report to the Legislative Research Commission on the disposition of the Kentucky Lottery Corporation's unclaimed prize money for each fiscal year.

HB 476, AN ACT relating to the consolidation of counties, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly to encourage county governments to perform at the highest levels of efficiency and economy while providing the highest standards of governmental services possible to their citizens. It is also the belief of the General Assembly that, in order to attain these high standards of efficiency, economy, and service and to assure the ongoing improvement in the quality of life of all citizens of the Commonwealth, all county governments must be permitted by the action of their fiscal courts or at the request of their citizens to consider consolidation with adjoining counties for these purposes. The General Assembly, in support of those counties that take action to consolidate, further intends to provide financial and technical assistance for those counties through legislative action in order to ease the transitions brought by consolidation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) Any two (2) or more adjoining counties may consolidate.
- (2) (a) An action to consolidate a county may be initiated by:
 - 1. The adoption of an ordinance by a fiscal court stating the intent of the county to consider consolidation with another county or counties; or
 - 2. The petitioning of the fiscal court by residents who are registered voters within the county.
- (b) The number of signatures required for a petition to consolidate shall equal twenty percent (20%) of the total number of persons voting in the last presidential election. All petitions shall be certified as sufficient by the county clerk. All petitions shall include the printed name, address, age, and signature of each registered voter signing the petition, and the date of the signature. The petition shall not be circulated for a period of time exceeding one hundred twenty (120) days in duration. If the petition exceeds the one hundred twenty (120) days time frame it shall become void. Any petition containing irregularities shall be returned to the petitioner who shall have ten (10) days to correct the irregularities and resubmit the petition to the county judge/executive for final certification.
- (c) Upon receipt of a certified petition or the final adoption of an ordinance stating the intent of a county to consolidate with another county or counties, the county judge/executive in the initiating county shall within ten

(10) working days notify by certified mail, return receipt requested, the fiscal courts of the adjoining counties proposed for consolidation and shall notify the residents of those counties by legal public notice of the action taken in the initiating county. If no action is taken within one hundred twenty (120) days from the receipt of the certified letter to present a petition or to enact an ordinance in the adjoining counties which are proposed to be consolidated as provided in subsections (2)(a) and (2)(b) of this section, the actions in the initiating county shall be considered void.

- (3) All ordinances relating to county consolidation shall be adopted in accordance with the provisions of KRS 67.076 and 67.077. Upon enactment, the ordinances shall be published in accordance with the provisions of KRS Chapter 424.
- (4) (a) If within one hundred twenty (120) days of the public notice in an adjoining county proposed for consolidation, a petition is received or an ordinance is enacted stating the intent of the county to consolidate with a county or counties as provided in subsections (2)(a) and (2)(b) of this section, a special election shall be held within ninety (90) days on the same day within each county, to determine the will of the people in each separate county.
 - (b) The county judge/executive shall in each county proposed for consolidation deliver a certified copy of the enacted ordinance or the final certified petition to the county clerk of the county in which the election is to be held. The county clerk in each county proposed for consolidation shall prepare the following question to be placed before the voters: "Are you in favor of being consolidated with the county (or counties) of which will form a new county?" The advertisement of the election by the sheriff shall be in accordance with KRS 242.040. The advertisement shall include the date of the election and the question to be voted upon.
 - (c) If a simple majority of those persons voting in each county vote in favor of the consolidation, the counties shall become consolidated. If less than a simple majority of those persons voting in each county favor the consolidation, then the issue of consolidation will become void for all purposes in each county.
- (5) All general costs associated with the conduct of special elections relating to a proposed consolidation of counties shall be paid by the state. The publication costs for legal public notice of the election and the costs for legal public notices in adjoining counties proposed for consolidation as required in subsection (2)(c) of this section shall be considered a general cost of the election, but no other advertising shall be paid for by state funds.
- (6) Upon certification of an affirmative action to consolidate counties, no further action shall be made to alter the territory of the newly consolidated county for a period of ten (10) years.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any new county created by the consolidation of two (2) or more counties shall not take any legal action until the expiration of the current terms of office of all elected county officials holding office when the counties were consolidated and the election and certification of the officials of the newly consolidated county. The officers of the newly consolidated county shall be elected and take office in the same manner and at the same time as other elected county officials.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) Upon certification of an election to consolidate counties, the county judge/executive of each county shall, within thirty (30) days after the certification, appoint six (6) voters from the county to serve as members of a transition committee for the purpose of dividing the area of the new county into districts for the election of members of the fiscal court for the new county. The appointments for each county shall be made so that they reflect as closely as possible the ratio of each of the two (2) major political parties to the total county population. The committee members representing each county shall begin meeting jointly within fifteen (15) days after their appointment and proceed to divide the area of the new county into not less than three (3) nor more than eight (8) magisterial districts, each to be as nearly equal in area and population as possible. The committee shall also select not fewer than two (2) names nor more than five (5) names for the new county, which shall be submitted to the voters for their selection at the same time as the election for the members of the new fiscal court. The report of the transition committee shall be filed with the county judge/executive of each consolidating county not less than sixty (60) days after the appointment of the members. The members of the transition committee shall select a chairman from among themselves to preside over the meetings of the group.
- (2) If, at the expiration of sixty (60) days after the initial meeting of the transition committee, a majority of the members have failed to agree upon the selection of the names for the proposed county or fail to agree upon a plan to divide the new county into magisterial districts, the Governor shall appoint an additional person to act as chairman of the committee. The Governor's appointee shall not vote on any question except in the case of a tie vote, to aid in the selection of the potential new county names, the formation of magisterial districts, or any other relevant issue for the ballot. The report of the committee shall be filed with the county judge/executive of each county not less than thirty (30) days after appointment of the new chairman.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) All taxes in effect in each county in the fiscal year immediately preceding the beginning of the term of the new fiscal court shall remain in effect until action is taken to change or remove them by the new fiscal court.
- (2) The territory formerly embraced within each of the previously existing counties is hereby made into a separate special taxing district for the repayment of financial obligations and debts of the previously existing counties. The new fiscal

court has the power to levy and collect taxes in these special taxing districts in addition to its other powers to levy and collect taxes. The separate debt of each special taxing district shall be a first lien on the territory formerly embraced within that previously existing county. The money collected as taxes for each of the special taxing districts shall be kept separate and shall first be used as payment of the debts of the previously existing county that formerly embraced the territory of that specific taxing district. The special taxing district shall cease to exist upon repayment of all debts and financial obligations of the previously existing county.

- (3) Any surplus funds in existence in a county on the date of a consolidation shall be spent in the territory of the previously existing county in which the surplus funds were raised. The surplus funds shall first be expended towards the regular repayment of any financial obligations or debts of the territory formerly embraced within each of the previously existing counties that were to be paid in full within five (5) years. The schedule for the repayment of debts or financial obligations that were contracted for a period of more than five (5) years shall be at the discretion of the newly formed county. Any surplus funds remaining after the payment of obligations and debts shall be spent by the fiscal court of the newly formed county in the territory of the previously existing county from which the taxes were collected.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Voters shall select the county seat of the newly consolidated county from one (1) of the previously existing county seats. The question on the selection of the new county seat shall be submitted to the voters at the same time as the election for the members of the new fiscal court and the selection of the name for the newly consolidated county. The county seat shall remain at this location for a period of no less than ten (10) years after which time the citizens may remove the county seat only as provided by KRS 67.020. The remaining county government buildings in the county seats of the previously existing counties shall be maintained as branch offices of the newly formed counties for a period of no less than ten (10) years after which the fiscal court may make a decision as to their necessity and use.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Where the previously existing counties were in the same representative, senatorial, judicial circuit, congressional, or railroad commissioner district or districts, the newly consolidated county shall remain in the same district or districts. Where the previously existing counties were not in the same judicial circuit or judicial district, the newly consolidated county shall be placed in the same district in which the previously existing county which had the largest population was located. If each of the previously existing counties was a separate district, the new county shall be divided into such districts, each district to be contiguous with the boundary lines of the previously existing counties.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to guarantee the awarding of preference points on applications for Small Cities Community Development Block Grant funds made by newly consolidated counties. The Department for Local Government shall provide technical and advisory assistance to newly consolidated counties. Funds awarded under this provision shall be expended in compliance with all state and federal guidelines governing those funds.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Upon the creation of a new county by the consolidation of previously existing counties, one million dollars (\$1,000,000) of those funds coming into the Commonwealth through the Small Cities Community Development Block Grant Program shall be awarded to each of the first ten (10) newly consolidated counties to assist them in the transition brought about by the consolidation. Funds awarded under this provision shall be expended in compliance with all state and federal guidelines governing those funds.

Section 10. The following KRS sections are repealed:

- 67.190 Petition for consolidation of counties -- Notice.
- 67.200 New petition when petition not filed in time.
- 67.210 Order for election on question of consolidation.
- 67.220 Advertisement of election.
- 67.230 General election laws to apply.
- 67.240 Certification of results of election -- Appointment of commissions to lay off justices' districts and select choice of names and county seats.
- 67.250 Report of commissions -- Election of officers for new county.
- 67.260 Election to choose name and county seat of new county -- Period between elections on consolidation.
- 67.270 Debts of old counties -- Separate taxes to pay.
- 67.280 Assignment of new county to various election districts.
- 67.290 Records and property of old counties.
- 67.310 Disposition of county administrative agencies.

- Section 11. (1) In addition to the receipt of funds as provided in Section 9 of this Act, the first ten (10) new counties created by consolidation after the effective date of this Act and within the 2000-2002 biennium shall receive funding from the General Fund to be used by the fiscal court for capital improvements, debt reduction, infrastructure, and matching grants.
- (2) No moneys received under this section from the consolidation of counties shall be used for salaries or administrative costs.
- (3) Funding under subsection (1) of this section to the first ten (10) new counties created by consolidation shall be awarded as follows:
- (a) New counties with a population of fifty thousand (50,000) or less -- five million dollars (\$5,000,000);
 - (b) New counties with a population of greater than fifty thousand (50,000) but less than or equal to one hundred thousand (100,000) -- four million dollars (\$4,000,000);
 - (c) New counties with a population of greater than one hundred thousand (100,000) but less than or equal to three hundred thousand (300,000) -- three million dollars (\$3,000,000); or
 - (d) New counties with a population of greater than three hundred thousand (300,000) -- two million dollars (\$2,000,000).
- (4) If a newly consolidated county is formed by two (2) previously existing counties, at least twenty five percent (25%) of the total funds awarded to a new county according to this section shall be expended on projects and programs that directly benefit the residents in each of the previously existing counties. If more than two (2) counties consolidate to form a new county, at least twenty percent (20%) of the total funds awarded to a new county according to this section, shall be expended on projects and programs that directly benefit the residents in each of the previously existing counties.
- (5) The population of a newly consolidated county shall be determined by combining the population of the previously existing counties by using the most recent county population estimates provided by the United States Bureau of Census on the date of the certification of the successful election to consolidate the counties.

Section 12. (1) For the 2000-2002 biennium, there is appropriated an amount not to exceed ten million dollars (\$10,000,000) from the Small Cities Community Development Block Grant Program to be used as provided in Section 9 of this Act.

(2) For the 2000-2002 biennium, there is appropriated an amount not to exceed twenty million dollars (\$20,000,000) from the General Fund to be used as provided in Section 11 of this Act.

HB 491, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-1722, dated December 28, 1999, which designates the Office of Training and Reemployment as the administrator for Title I of the Workforce Investment Act of 1998 and the State Workforce Investment Board. All funds and functions associated with the Workforce Investment Act and the Workforce Investment Board shall be transferred within the Workforce Development Cabinet from the Office of Policy and Budget to the Office of Training and Development.

The Committee Substitute No. 1 to **HB 491** is as follows:

HB 491, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-1722, dated December 28, 1999, which designates the Office of Training and Reemployment as the administrator for Title I of the Workforce Investment Act of 1998 and the State Workforce Investment Board. All funds and functions associated with the Workforce Investment Act and the Workforce Investment Board shall be transferred within the Workforce Development Cabinet from the Office of Policy and Budget to the Office of Training and Reemployment.

HCR 12, A CONCURRENT RESOLUTION confirming the appointment of Jennifer M. Headdy to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 99-1338 and letter of October 5, 1999, the Governor appointed Jennifer M. Headdy and submitted her appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Jennifer M. Headdy meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Jennifer M. Headdy to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2003.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Ms. Jennifer M. Headdy, 914 North Main Street, Henderson, Kentucky 42420 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 81, A CONCURRENT RESOLUTION confirming the appointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by Executive Order 99-1694 and letter of December 21, 1999, the Governor appointed Ronald J. Carson to an unexpired term on the Kentucky Long-Term Policy Research Center Board and submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Ronald J. Carson meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board for an unexpired term ending October 6, 2002.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Ronald J. Carson, 215 Evergreen Road, Frankfort, Kentucky 40601 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Representative Stumbo moved that the rules be suspended to grant floor privileges to Former Representative Trapp. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 454, HB 88, HB 385, HB 456, SB 34, SB 40, and HB 295** have been posted for passage in the Orders of the Day for February 9, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 500**

Report on Enrolled Bills

HB 51, HB 79, HB 91, and HB 93 delivered to the Senate and signed by the president. Delivered to Governor on February 8, 2000. (Time: 2:40 p.m.)

Orders of the Day

HB 15, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 15**. Agreed.

Representative Damron moved that **HB 15**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 81, Nays 14**. (See February 8, 2000 roll call on **HB 15** - Appendix.)

HB 15, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 15**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 24** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:00 p.m.)

Orders of the Day (Continued)

HB 427, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 427**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 427**. Agreed.

Representative Nunn moved that **HB 427**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 8, 2000 roll call on **HB 427** - Appendix.)

HB 427, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 427**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 376, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 376**. Agreed.

Representative Gooch moved that **HB 376**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 8, 2000 roll call on **HB 376** - Appendix.)

HB 376, by way of Committee Substitute, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 376**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 404, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 404**. Agreed.

Representative Gooch moved that **HB 404**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 8, 2000 roll call on **HB 404** - Appendix.)

HB 404, by way of Committee Substitute, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 404**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 61 Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 61** be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 8, 2000 roll call on **HB 61** - Appendix.)

HB 61 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 466 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 466** be passed.

On the roll call the vote was: **Yeas 91, Nays 2.** (See February 8, 2000 roll call on **HB 466** - Appendix.)

HB 466 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 466** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 89 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 89** be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 8, 2000 roll call on **HB 89** - Appendix.)

HB 89 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 89** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 131, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Committee Amendment No. 1 to **HB 131**. Agreed.

Representative Wayne moved that **HB 131**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 8, 2000 roll call on **HB 131** - Appendix.)

HB 131, as amended, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 131**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 143 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 143** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 8, 2000 roll call on **HB 143** - Appendix.)

HB 143 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 143** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 326 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fischer moved that **HB 326** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 8, 2000 roll call on **HB 326** - Appendix.)

HB 326 was passed and the title agreed to.

Representative Fischer moved that the vote by which **HB 326** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 433, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of the Committee Substitute to **HB 433**. Agreed.

Representative R. Adams moved that **HB 433**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 8, 2000 roll call on **HB 433** - Appendix.)

HB 433, by way of Committee Substitute, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 433**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 444, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 444**. Agreed.

Representative Barrows moved that **HB 444**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 8, 2000 roll call on **HB 444** - Appendix.)

HB 444, by way of Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 444**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 237, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HB 237**. Agreed.

Representative Webb moved that **HB 237**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 8, 2000 roll call on **HB 237** - Appendix.)

HB 237, by way of Committee Substitute, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 237**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 568, HB 5, HB 220, and HB 588**. Agreed.

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the when the House adjourns it does so until 2:00 p.m., February 9, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 610, by Representative Wilkey: AN ACT relating to reorganization.

HB 611, by Representatives Thomas, McKee, L. Clark, Hoffman, Stumbo, Callahan, A. Arnold, Barrows, Richards, and Wilkey: AN ACT relating to the tobacco Master Settlement Agreement and declaring an emergency.

HB 612, by Representatives J. Turner, Gooch, Colter, Rader, Stewart, Childers, Webb, Anderson, Westrom, Napier, Upchurch, T. Turner, Hoover, Ausmus, Ratliff, Vincent, Cave, Alexander, Adkins, Stumbo, Stacy, Allen, C. Belcher, Damron, Bratcher, Gray, P. Clark, Tapp, Worthington, Crimm, Barrows, Buckingham, Crenshaw, Kerr, Geveden, Branham, Fischer, Yonts, Wilkey, Thomas, McKee, Coleman, Treesh, Riggs, Wayne, Horlander, Burch, Reinhardt, Graham, Richards, J. Arnold, Cherry, Stein, Johns, Bather, Weaver, Polston, Bowling, Ford, Walton, D. D. Butler, Feeley, Scott, Heleringer, Haydon, DeWeese, Draud, D. Butler, Riner, Cornett, J. Adams, L. Belcher, Nesler, Simpson, Jordan, Palumbo, Marzian, Jenkins, Bruce, Sims, Callahan, Marcotte, Palmer, Miller, Crall, Siler, Cox, R. Adams, Lee, A. Arnold, Hoffman, Thompson, and Baugh: AN ACT relating to the Daniel Boone Parkway.

HB 613, by Representative Gray: AN ACT relating to workers' compensation.

HB 614, by Representative Wayne: AN ACT relating to social work.

HB 615, by Representatives Anderson and Allen: AN ACT relating to elections.

HB 616, by Representatives Collins and Gooch: AN ACT relating to oil and gas.

HB 617, by Representatives Stumbo and Riggs: AN ACT relating to health insurance.

HB 618, by Representative Jenkins: AN ACT relating to physical therapy practitioners.

HJR 90, by Representatives Stein, Westrom, Webb, Marzian, Burch, Jenkins, and Bather: A JOINT RESOLUTION directing the Cabinet for Health Services to take all actions necessary to secure funding for a wage pass-through program to increase salaries for direct care personnel in long-term care facilities and declaring an emergency.

HR 91, by Representatives Stein, Westrom, Webb, Marzian, Burch, Jenkins, Jordan, and Bather: A RESOLUTION calling for full funding of the total budget request as submitted to the Governor for the Division for Licensing and Regulation for the fiscal year beginning on July 1, 2000, and ending on June 30, 2001, and for the fiscal year beginning July 1, 2001, ending on June 30, 2002.

HR 92, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rebecca J. Griffith.

HR 93, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Walter H. Jackson.

HR 94, by Representatives Feeley, Upchurch, T. Turner, Bowling, Palumbo, DeWeese, Stewart, Westrom, Webb, Marzian, A. Arnold, Stein, and Draud: A RESOLUTION proclaiming the month of February as Children's Dental Health Month.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Natural Resources and Environment: **HB 599**

Education: **HB 572**

Banking and Insurance: **HB 595, HB 517**

Motions, Petitions, and Communications (Continued)

Representative Hoffman moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hoffman moved the adoption of the following **HR 80**:

HR 80, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Larry Randall French.

With deepest respect and admiration, we pay homage and tribute to Larry Randall French, and we pause in silent reverence for his soul.

WHEREAS, Larry Randall French was born on September 19, 1950, a native son of Hodgenville, LaRue County, Kentucky, and he traversed these earthly bounds on January 20, 2000; and

WHEREAS, Larry Randall French was the loving son of Bradley French, Jr. and Maxine Warren French; he was the devoted husband of Debbie Higdon French of Georgetown, Kentucky; he was the loving father of Chad French of Georgetown, Kentucky, and of Brooke French of Georgetown, Kentucky; and he was the caring and loving brother of Valarie Logue, Louisville, Kentucky, and three brothers, Ronnie French and Brent French, Hodgenville, and Doug French, Midlothian, Virginia; and

WHEREAS, Larry Randall French was a graduate of LaRue County High School and attended Eastern Kentucky University; and

WHEREAS, Larry Randall French courageously served his state by entering the Kentucky State Police Academy as a Cadet on January 3, 1972, and thereafter graduated and was promoted to Trooper and assigned to Frankfort Post 12 in Scott County; he served at the Lieutenant Governor's Mansion from 1979-1980; he was assigned to and served in the Governor's Mansion from 1983-1985; he then served in the Public Affairs Office from 1985-1990; and he served in Driver's Testing from 1990-1999 and played the role of Santa Claus every year for the children of Kentucky State Police employees; and

WHEREAS, Larry Randall French further served the Commonwealth of Kentucky's Office of the Attorney General as an Investigator for the Welfare Fraud Section of the Special Investigation Division; and

WHEREAS, Larry Randall French will be remembered as a respected and well-loved member of the Scott County community and the state of Kentucky, where he was a member of the Blue Knights Goldwing Motorcycle Organization, he was a member of the Mt. Vernon Lodge No. 14, F and AM and the Bluegrass Chapter C, he was an auctioneer, he was a motor coach driver for the Bluegrass Charter, and he was a member of the Northside Christian Church; and

WHEREAS, the passing of Larry Randall French has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Larry Randall French and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Larry Randall French.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Debbie Higdon French, 106 Teal Court, Georgetown, Kentucky 40324.

There being no objection **HR 80** was adopted.

Representative Nesler moved the adoption of the following **HR 92**:

Representative Nesler moved the adoption of the following **HR 93**:

HR 92 and **HR 93** were not in the Clerk's possession and will be taken up later.

Representative Branham moved the adoption of the following **HR 87**:

HR 87, A RESOLUTION memorializing Effie Waller Smith.

WHEREAS, Effie Waller Smith was born in Pike County, Kentucky, in 1879, the daughter of Frank Smith and Sibbie Waller Smith, former slaves who married in 1873 and nurtured four children, all of whom subsequently obtained advanced degrees in education; and

WHEREAS, Effie Waller Smith was blessed with a supportive home environment and a burning desire to read and learn, she spent sixteen years of her young life writing poetry and teaching in various school systems throughout Kentucky and Tennessee; and

WHEREAS, Effie Waller Smith academically, emotionally, and spiritually cultivated her own potential in the art of poetry, yet gained little recognition due to entrenched racist barriers that towered over people of color during her life; and

WHEREAS, Effie Waller Smith, notwithstanding discrimination and setbacks, continued writing poetry and demanding recognition until she received considerable support from several Pikeville residents; and

WHEREAS, Effie Waller Smith became a published poet with the distribution of her first book of poetry "Songs of the Months" in 1904, her next book "Rhymes from the Cumberland" in 1909, and her final book "Rosemary and Pansies" in 1909, along with many selected poems in several major literary magazines; and

WHEREAS, Effie Waller Smith married her school classmate, Charles Smith, who died at the hand of a moonshiner while serving a warrant in rural Pike County, and she is believed to have never recovered emotionally from his tragic and unresolved murder; and

WHEREAS, Effie Waller Smith, after the death of her husband, published just one last artistic composition entitled "Autumn's Winds" in Harper's Monthly before disappearing completely from public record in 1917; and

WHEREAS, Effie Waller Smith left Kentucky for Wisconsin in 1918, where she lived until the time of her death in 1960; and

WHEREAS, Effie Waller Smith over the course of her artistic life blessed the citizens of this Commonwealth with scores and scores of precious poems that can be enjoyed by generations and generations to come;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. When the House of Representatives adjourns this day, it does so in memory, honor, and tribute to Effie Waller Smith of Pike County Kentucky, poet extraordinaire.

Section 2. The Clerk of the House of Representatives shall transmit a copy of this Resolution to the Editor of the Appalachian News-Express at P. O. Box 802, Pikeville, Kentucky 41502 for publication.

There being no objection **HR 87** was adopted.

Representative Yonts moved the adoption of the following **Legislative Citation No. 40**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Robert L. Roe and respectfully joins with Representative Brent Yonts in expressing its deepest sympathy to his beloved wife, Merry Roe; and his cherished children, John Robert Roe and Stacy Roe Holt; and all who share in the great loss on the passing of this fine and esteemed citizen. A member of the Elkton Road Church of Christ, he was a valued member of the Muhlenberg County community where he taught business at Muhlenberg South High School in Greenville, Kentucky. Honored and remembered on this day for his many and generous contributions to his family, his students, his colleagues and his friends, Robert L. Roe will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, this eighth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 40 was adopted without objection.

Representative Nesler moved the adoption of the following **HR 92**:

HR 92, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rebecca J. Griffith. With deepest respect and admiration, we pay homage and tribute to Rebecca J. Griffith.

WHEREAS, Rebecca J. Griffith was born on September 19, 1975, a native of Graves County, Kentucky, and she traversed these earthly bounds on February 4, 2000; and

WHEREAS, Rebecca J. Griffith was the devoted daughter of Jackie and Carol Farmer Griffith; and she was the loving granddaughter of Lonzo and Dorothy Griffith of Mayfield, and of Charles and Edna Farmer of Lynnville; and

WHEREAS, Rebecca J. Griffith graduated from Northside Christian School in 1993, and she was employed by Wal-Mart; she was a devout member of Sharon Baptist Church where she played the organ and was a Sunday School teacher, a nursery worker, and a member of the Essential Direction Youth Group; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and Rebecca J. Griffith is worthy of the highest commendation; and

WHEREAS, all who knew and admired Rebecca J. Griffith will grieve over their loss, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Rebecca J. Griffith and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Rebecca J. Griffith.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Jackie and Carol Farmer Griffith, 8994 State Route 97, Sedalia, Kentucky 42079.

There being no objection **HR 92** was adopted.

Representative Nesler moved the adoption of the following **HR 93**:

HR 93, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Walter H. Jackson.

With deepest respect and admiration, we pay homage and tribute to Walter H. Jackson, and we pause in silent reverence for his soul.

WHEREAS, Walter H. Jackson was born on November 11, 1938, a native of Pryorsburg, Graves County, Kentucky, and he traversed these earthly bounds on February 4, 2000; and

WHEREAS, Walter H. Jackson was the loving son of the late Henry and Ethel Howle Jackson; and he was also preceded in death by four brothers and one sister; he was the devoted husband of Jo Ann Champion Jackson; he was the loving father of two daughters, Lisa Jackson Stevens and Anita Jackson; and three sons, Mark H. Jackson, Rickey L. Jackson and Shane Jackson; he was the caring brother of two sisters, Hallie Cannon and Wilma Sealy; and he was the proud grandfather of five grandchildren; and

WHEREAS, Walter H. Jackson was a member of Mount Olive Methodist Church and Wingo Masonic Lodge 448 F&AM 32nd Degree; he retired from General Tire Company after 25 years of service, and he served his country with distinction in the United States Air Force; and

WHEREAS, all who knew and admired Walter H. Jackson will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Walter H. Jackson and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Walter H. Jackson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Jo Ann Champion Jackson, 468 Alexander Loop, Mayfield, Kentucky 42066.

There being no objection **HR 93** was adopted.

Representative Wilkey moved the adoption of the following **Legislative Citation No. 39**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Hannelore Mooneyhan and offers its sincerest condolences to the Mooneyhan family and to all those who share in the loss of this cherished citizen, the beloved wife of James Mooneyhan; devoted mother of Ricky Mooneyhan and Jane McCreary; and cherished grandmother. The members of this august body solemnly join Representative Rob Wilkey in adjourning on this day in honor of Hannelore Mooneyhan, whose memory will long be held dear by all those whose lives were touched by her remarkable presence. Done in Frankfort, this eighth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 39 was adopted without objection.

Representative Yonts moved that **HJR 4** be withdrawn. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 15**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that he be recorded as voting "yea" on **HB 89**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that he be recorded as voting "nay" on **HB 89**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that he be recorded as voting "nay" on **Roll call adjournment** on February 3, 2000, February 4, 2000, and February 7, 2000. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 amending Floor Amendment No. 2 to **HB 377**, by Representative Upchurch:

On line 11 of the amendment, by deleting "**or**"; and

On line 13 of the amendment, after "**located**" by inserting "; **or**" and

After line 13 of the amendment, by inserting:

"4. Within one hundred (100) miles of the county in which its principal office is located if the county containing the principal office is on the border of the Commonwealth".

Floor Amendment No. 4 to **HB 377**, by Representative Upchurch:

On page 1, line 8 after "(2)" and before "Any" by inserting "**(a)**";

On page 1, line 10 after "establish" by placing brackets around and striking through ", within any" and by deleting "**state, the District of**";

On page 1, line 11 by deleting "**Columbia, or a territory of the United States**";

On page 1, line 13 after "exercised" and before the period by inserting ":" and by inserting the following:

"1. Within any county in which its principal office or an existing branch is located;

2. Within any county contiguous to the county in which its principal office is located, but a branch may not be established in more than four (4) contiguous counties;

3. Within seventy-five (75) miles of the county in which its principal office is located; or

4. Within one hundred (100) miles of the county in which its principal office is located if the county containing the principal office is on the border of the Commonwealth";

On page 1, line 13 before "Before" by inserting "**(b)**";

On page 1, line 18 after the first "." and before "The" by inserting "**(c)**";

On page 1, line 20 before "(a)" by adding "**1.**" and by placing brackets around and striking through "(a)";

On page 2, line 2 before "(b)" by adding "**2.**" and by placing brackets around and striking through "(b)";

On page 2, lines 18 to 20 by removing brackets and strike through; and

From page 3, line 5 through page 14 line 24 by deleting Sections 2 through 6 in their entirety.

Floor Amendment No. 1 to **HB 450**, by Representative Heleringer:

On page 1, line 9, after "**pregnancy.**" by inserting "**The term shall not include contraceptive medical services, drugs, or devices used in a manner to induce an abortion.**"

On page 2, after line 12, by inserting the following:

"(6). Nothing in this section shall be construed to require prescription contraceptive coverage in a policy if an employer who provides a group health benefit plan, or a covered person in an individual health benefit plan, objects to contraceptive coverage on religious grounds. The insured may sign a waiver of coverage for prescription contraceptives at the date of application for a new policy or the date of renewal or enrollment for an existing policy."

Floor Amendment No. 1 to the Committee Substitute No. 1 to **HB 73**, by Representative Stumbo:

On page 5, line 26, by deleting "**Following payment, a deferred deposit service business shall not enter**"; and

On page 5, by deleting line 27 in its entirety; and

On page 6, line 1, by deleting line 1 in its entirety; and

On page 7, after line 21, by adding:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky hereby declares that in enacting this Act, it is the intent of the General Assembly to do all of the following:

- (1) To recognize that KRS Chapter 368 as created by 1992 Ky Acts chs. 213 and 341 (Senate Bill 311 and House Bill 747) in 1992 included deferred deposit transactions;*
- (2) To recognize further that in amending KRS Chapter 368 by the enactment of 1998 Ky. Acts ch. 601 (House Bill 226) in the 1998 Regular Session, the General Assembly contemplated that deferred deposit transactions were check cashing transactions previously governed by the 1992 creation of KRS Chapter 368 and that it was not for the first time bringing deferred deposit service businesses under the governance of KRS Chapter 368 and the regulatory authority of the Department of Financial Institutions, but rather that authority to engage in deferred deposit service business and to have those transactions regulated by the Department of Financial Institutions had already been covered under the 1992 enactment of KRS Chapter 368; and*
- (3) To clarify this issue of statutory interpretation, and to recognize, confirm, and declare that:*
 - (a) Any check cashing company licensed under KRS Chapter 368, prior to the effective date of 1998 Ky. Acts ch. 601, that accepted and deferred deposit of personal checks was authorized to charge a service fee that specifically was not interest under KRS 368.100(2) and*
 - (b) Therefore, the charging of such a fee was not subject to the usury laws and disclosure provisions in KRS Chapter 360."*

Floor Amendment No. 1 to the Committee Substitute to **HB 436**, by Representative Gooch:

On page 4, lines 17 through 19, by removing all the brackets and strikeouts on those lines; and

On page 23, line 23, by deleting "in by" and inserting "inby" in lieu thereof; and

On page 23, line 23, by removing the strikeouts and closing bracket from " the" and placing the closing bracket around "within"; and

On page 31, line 7, by deleting "are" and inserting "is" in lieu thereof.

Floor Amendment No. 11 to **HB 12**, by Representative Jenkins:

On pages 1 through 8, by deleting all language after the enacting clause and by inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 337.420 TO 337.433 IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly finds and declares that despite federal and state laws banning discrimination in employment and pay, in both the private and public sector, wage differentials persist between women and men and between minorities and nonminorities, in the same jobs, and in jobs that are comparable in skill, effort, and responsibility.*
- (2) It is the purpose of KRS 337.420 to 337.433 to correct and as rapidly as practicable to eliminate discriminatory wage practices based on sex, race, or national origin.*

Section 2. KRS 337.420 is amended to read as follows:

- (1) "Employee" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.
- (2) "Employer" means a person who has ~~eight (8)~~^{two (2)} or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.
- (3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and 337.990(14).
- (4) "Employ" includes to suffer or permit to work.
- (5) "Occupation" includes any industry, trade, business, or branch thereof, or any employment or class of employment.
- (6) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of labor.
- (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 3. KRS 337.423 is amended to read as follows:

- (1) No employer shall discriminate between employees ~~[in the same establishment]~~ on the basis of sex, race, or national origin by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex, or a different race, or national origin for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority

systems or merit increase systems, which do not discriminate on the basis of sex, *race, or national origin* shall not be included within this prohibition. ~~[Nothing in KRS 337.420 to 337.433 and 337.990(14) shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.990(14) and when the employer files with the commissioner of the Department of Workplace Standards a statement that the employer is covered by the federal Fair Labor Standards Act of 1938, as amended.]~~

- (2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and 337.990(14) shall not, in order to comply with it, reduce the wage rates of any employee.
- (3) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of KRS 337.420 to 337.433 and 337.990(14).
- (4) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.990(14)."

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 30:** Representative Stewart
- HB 198:** Representative Stewart
- HB 258:** Representative Jordan
- HB 439:** Representatives Haydon, Nunn, Webb
- HB 476:** Representatives Marcotte, Reinhardt
- HB 481:** Representatives L. Clark, Stacy
- HB 490:** Representatives Hoffman, Jenkins, Marzian, Palumbo, Stein
- HB 518:** Representatives Alexander, Branham
- HB 538:** Representative Lee
- HB 554:** Representatives J. Arnold, L. Clark, P. Clark
- HB 575:** Representatives Damron, Stewart
- HB 588:** Representative Ausmus
- HB 606:** Representatives Nesler, Stumbo

The following member filed a request to have his name withdrawn as co-sponsor of a Bill under rules previously suspended:

- HB 316:** Representative Burch

Announcements

The following meetings were announced:

Administrative Regulations Review Subcommittee, February 8, 2000, upon adjournment, Room 149

Subcommittee on Human Services, February 8, 2000, 15 minutes upon adjournment, Room 131

Transportation, February 9, 2000, 10:00 a.m.

Elections, Constitutional Amendments, and Intergovernmental Affairs, February 9, 2000, 10:00 a.m.

Education, February 9, 2000, 8:00 a.m.

Labor and Industry, February 9, 2000, 8:00 a.m., Room 125

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 9, 2000.

The motion that the House adjourn until 2:00 p.m., February 9, 2000, was adopted by voice vote.

FEBRUARY 9, 2000
TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Larry Bowald, Cynthiana Presbyterian Church, Cynthiana.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Polston and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 8, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 32, SB 77, SB 97, HB 3, HB 9, HB 49, HB 72, HB 82, HB 107, and HB 147.** (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HB 619, by Representatives Treesh, L. Belcher, Gooch, and Cave: AN ACT relating to motor vehicle insurance.

HB 620, by Representatives Webb, P. Clark, Stewart, and Wilkey: AN ACT relating to private employment agencies.

HB 621, by Representative Thomas: AN ACT relating to financial institutions.

HB 622, by Representatives Stein, Marzian, Nunn, Westrom, Jordan, Feeley, and Stumbo: AN ACT relating to student health care examinations.

HB 623, by Representative Walton: AN ACT relating to certified school employees.

HB 624, by Representative Branham: AN ACT relating to retirement.

HB 625, by Representative D. Butler: AN ACT relating to the Kentucky Racing Health and Welfare Fund, Inc.

HB 626, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 627, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 628, by Representative Gooch: AN ACT relating to Medicaid.

HB 629, by Representatives Richards, Stumbo, Barrows, Ford, L. Clark, Allen, Callahan, and Hoover: AN ACT relating to Commonwealth legal actions, making an appropriation therefor, and declaring an emergency.

HB 630, by Representative Stein: AN ACT relating to acquired immunodeficiency syndrome and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 611**

Appropriations and Revenue: **HB 617**

Banking and Insurance: **HB 608**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 615**

Health and Welfare: **HB 614, HB 618, HJR 90**

Labor and Industry: **HB 613**

Local Government: **HB 609**

Natural Resources and Environment: **HB 616**

State Government: **HB 610**

Transportation: **HB 612**

House Floor: **HR 91, HR 94**

Report of Committees

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 507**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 507, AN ACT relating to absentee voting and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted and persons who qualify under subparagraph 5. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.
- (a) The following voters may apply to cast their votes by absentee ballot at any time not later than the close of business hours seven (7) days before the election:
 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime; and
 5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
- (c) Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote, and shall be made in person to the county clerk, at any time during any of the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election as prescribed above.

(f) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

~~(g)(6)~~ Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
- (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
- (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and fifteen (15) days prior to each runoff primary.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 2. KRS 117.086 is amended to read as follows:

- (1) The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas who has received an absentee ballot transmitted by facsimile machine shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the state board by administrative regulation. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.
- (2) Any voter who shall be absent from the county on election day, but who does not qualify to receive an absentee ballot by mail under the provisions of KRS 117.085, and all members of county boards of elections, ~~and~~ precinct election officers, and pregnant women qualified to vote prior to the election under the provisions of Section 1 of this Act ~~[KRS 117.085]~~, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:
- (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.
- (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.
- (3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."
- (4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.
- (5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.
- (6) The clerk shall deposit all of the absentee ballots returned by mail in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.
- (7) The clerk shall keep a list of all persons who return their absentee ballots by mail or cast their ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of votes cast by absentee ballots returned by mail and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, cast in any election as a part of the official returns of the election.

Section 3. Whereas the provisions of this Act are necessary to administer the May primary election in a fair and effective manner with respect to pregnant voters, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute No. 1 to **HB 507** is as follows:

HB 507, AN ACT relating to absentee voting and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted and persons who qualify under subparagraph 5. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.
- (a) The following voters may apply to cast their votes by absentee ballot at any time not later than the close of business hours seven (7) days before the election:
 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime; and
 5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
- (c) Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.
- (d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
- (e) *Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. She may vote at any time during business*

hours on at least any of the twelve (12) working days before the election up to the close of business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote, and shall be made in person to the county clerk, at any time during any of the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election as prescribed above.

(f) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

(g) [(f)] Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
- (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
- (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and fifteen (15) days prior to each runoff primary.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 2. KRS 117.086 is amended to read as follows:

- (1) The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas who has received an absentee ballot transmitted by facsimile machine shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the state board by administrative regulation. In order to be counted, the

ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

- (2) Any voter who shall be absent from the county on election day; but who does not qualify to receive an absentee ballot by mail under the provisions of KRS 117.085, and all members of county boards of elections, ~~and~~ precinct election officers, and pregnant women qualified to vote prior to the election under the provisions of Section 1 of this Act ~~[KRS 117.085]~~, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:
 - (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.
 - (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.
- (3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."
- (4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.
- (5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.
- (6) The clerk shall deposit all of the absentee ballots returned by mail in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.
- (7) The clerk shall keep a list of all persons who return their absentee ballots by mail or cast their ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of votes cast by absentee ballots returned by mail and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, cast in any election as a part of the official returns of the election.

Section 3. Whereas the provisions of this Act are necessary to administer the May primary election in a fair and effective manner with respect to pregnant voters, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Education reported **HB 25, HB 136**, with Committee Substitute attached thereto, **HCR 35, HCR 36**, and **HCR 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 25, AN ACT relating to teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

- (a) Student achievement is directly related to the competency levels of the teachers and the teachers' ability to nurture student learning;
- (b) All students are entitled to have teachers who know the subjects they teach and who demonstrate skill for managing and monitoring student learning;
- (c) Teachers who meet entry-level standards need support and opportunities to develop higher-level skills

throughout their teaching careers;

- (d) Certification through the National Board for Professional Teaching Standards is based on high and rigorous standards and provides a process of development and assessment of teachers' knowledge, skills and abilities embedded in classroom practices in the certificate field; and
 - (e) Teachers who successfully meet the certification requirements through the National Board for Professional Teaching Standards can help strengthen the teaching profession within their schools and school districts by advising, assisting, and mentoring new teachers; by serving as role models and master teachers to student teachers; and by assisting other experienced teachers who seek national board certification.
- (2) The General Assembly establishes, on behalf of the public school teachers and students in the Commonwealth, a goal that by the year 2020 there will be at least one (1) national board certified teacher in every public school in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context otherwise requires:

- (1) "Mentor" means a highly skilled, experienced teacher who provides systematic and on-going support and assistance to other teachers in a school or school district to help them improve their teaching skills and practices;
- (2) "National Board for Professional Teaching Standards" and "national board" means a nonpartisan, independent, and nonprofit board composed of teachers and others that has developed a set of high and rigorous standards for accomplished teachers and that operates a national voluntary system to assess and certify teachers who meet their standards; and
- (3) "National board certification" means a demonstration by an experienced teacher of his or her teaching practice as measured against high and rigorous standards through a comprehensive assessment process administered by the National Board for Professional Teaching Standards.

SECTION 3. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby established a "Teachers' National Certification Incentive Trust Fund" in the State Treasury for the purposes of:
 - (a) Funding stipends for teachers to prepare for certification by the National Board for Professional Teaching Standards;
 - (b) Reimbursing a portion of the certification fee to each teacher who is awarded national board certification;
 - (c) Reimbursing local boards of education for persons who serve as substitute teachers for national board certification candidates; and
 - (d) Funding stipends for national board certified teachers who serve as mentors to other teachers within the school district.
- (2) Appropriations by the General Assembly in each biennial budget for the purpose of supporting national board certification shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for the purposes of this section. Funds appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.
- (3) The Education Professional Standards Board shall promulgate administrative regulations that establish the procedures for the administration of the funds as described in this section and the requirements for participating teachers and local boards of education.
- (4) Money in the fund shall be distributed to local boards of education and teachers by the Kentucky Department of Education in compliance with the administrative regulations promulgated by the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) (a) A teacher pursuing national board certification shall receive from the fund established under Section 3 of this Act a stipend of two hundred dollars (\$200) per day for two (2) days beyond the school contract year to prepare for the certification assessments.
- (b) A local board of education shall provide five (5) days' released time during the school year for a teacher pursuing national board certification. The local board of education shall request reimbursement from the fund established under Section 3 of this Act for substitute teacher pay based on the local board of education salary schedule for substitute teachers and for stipends paid to a teacher described in subsection (3) of this section. A local board of education may, at its own expense, provide additional released time for teachers pursuing national board certification.
- (c) If a teacher does not successfully complete all assessments required for national board certification during a school year, the provisions in this subsection may be applied to a second school year.
- (2) As of the effective date of this Act, a teacher who attains national board certification shall be reimbursed seventy-five percent (75%) of the certification fee for the initial ten (10) year certificate. Fees for renewal of the national board certificate shall be at the teacher's expense.

- (3) A national board certified teacher may receive a stipend in addition to his or her annual compensation for serving as a mentor to teachers within his or her school or school district. The Education Professional Standards Board shall promulgate administrative regulations by January 1, 2001, under which a local board of education, in cooperation with the school-based decision making council, may establish a mentoring program within a school to utilize national board certified teachers. The administrative regulations shall specify the conditions for the mentoring program as well as the amount of the stipend that will be provided to a teacher serving as a mentor.**

SECTION 5. A NEW SECTION OF KRS 157.310 TO 157.440 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other statute to the contrary, a local board of education shall provide a public school teacher who has attained certification from the National Board for Professional Teaching Standards at the effective date of this Act or thereafter with an annual national board certification salary supplement of two thousand dollars (\$2,000) for the life of the certificate. The supplement shall be added to the teacher's base salary on the local board's single salary schedule and shall be considered in the calculation for contributions to the Kentucky Teachers' Retirement System. If a nationally certified teacher becomes no longer employed as a classroom teacher or a teacher mentor in the field of his or her national certification, the supplement shall cease. A local board of education shall request reimbursement for these purposes from the fund to support education excellence described in KRS 157.330.

SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other statute to the contrary, an experienced, out-of-state teacher shall qualify for a regular provisional certificate if the applicant:

- (1) Completes the application process;**
- (2) Holds a valid certificate issued by the state where the applicant most recently taught; and**
- (3) Holds a valid certificate issued by the National Board of Professional Teaching Standards.**

Section 7. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

- (1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.
 - (a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and
 - (b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;
- (2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;
- (3) "Board" means the board of education of any county or independent school district;
- (4) "District" means any school district as defined by law;
- (5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;
- (6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;
- (7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;
- (8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;
- (9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;
- (10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A

teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

- (11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;
- (12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;
- (13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;
- (14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;
- (15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;
- (16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board;~~[-and]~~
- (17) "National board certification salary supplement" means an annual supplement added for the life of the certificate to the base salary of a teacher who attains national board certification; and
- (18) "Weather-related low attendance day" means a school day on which the district's attendance falls below the percentage of average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the Kentucky Board of Education in accordance with its administrative regulations.

HB 136, AN ACT relating to public school volunteers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.
- (2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.
- (3) Each local school district shall develop policies and procedures that encourage volunteers to assist in school or district programs.
- (4) Each local school district shall provide a written description detailing responsibilities and expectations, as well as specific qualifications that are needed for specific volunteer activities.
- (5) The district shall conduct a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). The cabinet and the Administrative Office of the Courts shall promulgate administrative regulations prescribing procedures for requesting the criminal records checks. If the cabinet or the Administrative Office of the Courts charges fees, these shall not be charged to the volunteer. The local school district shall arrange to pay the cost which may be from local funds or donations.
- (6) The district shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed

appropriate by the local school district.

Section 2. KRS 161.044 is amended to read as follows:

- (1) The Kentucky Board of Education shall ~~promulgate[establish]~~ administrative regulations governing the qualifications of teachers' aides ~~and adult volunteer personnel~~ in the common schools. All teachers' aides working in kindergarten or with entry level students in primary classes and all instructional teachers' aides initially employed after July 1, 1986, except those with current teacher certification, shall have a high school diploma or a general equivalency diploma.
- (2) "Noninstructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing noninstructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a noninstructional period. Noninstructional teachers' aides employed on a full-time basis shall possess skills necessary to perform their duties and shall meet the requirements established in KRS 161.011 **and KRS 160.380(5)**.
- (3) Within the administrative regulations established by the Kentucky Board of Education, a local district may employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment as authorized under the administrative regulations, and as directed by the professional administrative and teaching staff, these personnel shall have the same legal status and protection as a certified teacher in the performance of the same or similar duties.
- (4) Local districts shall give preference to applicants for the position of teacher's aide who have regular or emergency teacher certification.
- (5) ~~Within the provisions established by the Kentucky Board of Education, local districts may utilize adult volunteer personnel in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.~~
- (6) Local districts shall provide training of the instructional teacher's aide with the certified employee to whom he is assigned.

The Committee Substitute No. 1 to **HB 136** is as follows:

HB 136, AN ACT relating to public school volunteers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.
- (2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.
- (3) Each board of education shall develop policies and procedures that encourage volunteers to assist in school or district programs.
- (4) Each local board of education shall develop and adopt a policy requiring a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). The cabinet and the Administrative Office of the Courts shall promulgate administrative regulations prescribing procedures for requesting the criminal records checks. If the cabinet or the Administrative Office of the Courts charges fees, the local board of education shall arrange to pay the cost which may be from local funds or donations from any source including volunteers.
- (5) The local board of education shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed appropriate by the local board of education.

Section 2. KRS 161.044 is amended to read as follows:

- (1) The Kentucky Board of Education shall ~~promulgate[establish]~~ administrative regulations governing the qualifications of teachers' aides ~~and adult volunteer personnel~~ in the common schools. All teachers' aides working in kindergarten or with entry level students in primary classes and all instructional teachers' aides initially employed after July 1, 1986, except those with current teacher certification, shall have a high school diploma or a general equivalency diploma.
- (2) "Noninstructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing noninstructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a noninstructional period. Noninstructional teachers' aides employed on a full-time basis shall possess skills necessary to perform their duties and shall meet the requirements established in KRS 161.011 **and KRS 160.380(5)**.

- (3) Within the administrative regulations established by the Kentucky Board of Education, a local district may employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment as authorized under the administrative regulations, and as directed by the professional administrative and teaching staff, these personnel shall have the same legal status and protection as a certified teacher in the performance of the same or similar duties.
- (4) Local districts shall give preference to applicants for the position of teacher's aide who have regular or emergency teacher certification.
- (5) ~~Within the provisions established by the Kentucky Board of Education, local districts may utilize adult volunteer personnel in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.~~
- (6) Local districts shall provide training of the instructional teacher's aide with the certified employee to whom he is assigned.

HCR 35, A CONCURRENT RESOLUTION confirming the appointment of Joan N. Taylor to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary Education, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Ms. Joan N. Taylor as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2000; and

WHEREAS, the Senate and the House of Representatives find that Ms. Taylor meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with her duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate, pursuant to KRS 164.011, do confirm the appointment of Ms. Joan N. Taylor to the Council on Postsecondary Education for a term expiring December 31, 2000.

Section 2. That the Clerk of the House shall forward a copy of this Resolution, and written notification of its adoption, to Ms. Joan N. Taylor, 1324 Tanforan Drive, Lexington, Kentucky 40517, and to Governor Paul Patton, Room 100, State Capitol, Frankfort Kentucky 40601.

HCR 36, A CONCURRENT RESOLUTION confirming the appointment of Hilda Gay Legg to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary Education, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Ms. Hilda Gay Legg as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2005; and

WHEREAS, the Senate and the House of Representatives find that Ms. Legg meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with her duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and Senate, pursuant to KRS 164.011, do confirm the appointment of Ms. Hilda Gay Legg to the Council on Postsecondary Education for a term expiring December 31, 2005.

Section 2. That the Clerk of the House shall forward a copy of this Resolution, and written notification of its adoption, to Ms. Hilda Gay Legg, 330 Pumphouse Road, No. 6, Somerset, Kentucky 42503, and to Governor Paul Patton, Room 100, State Capitol, Frankfort Kentucky 40601.

HCR 37, A CONCURRENT RESOLUTION confirming the appointment of Charles Layson Owen to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary

Education, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Mr. Charles Layson Owen as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2005; and

WHEREAS, the Senate and the House of Representatives find that Mr. Owen meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with his duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate, pursuant to KRS 164.011, do confirm the appointment of Mr. Charles Layson Owen to the Council on Postsecondary Education for a term expiring December 31, 2005.

Section 2. That the Clerk of the House shall forward a copy of this Resolution, and written notification of its adoption, to Mr. Charles Layson Owen, 6 River Hill Road, Louisville, Kentucky 40207, and to Governor Paul Patton, Room 100, State Capitol, Frankfort Kentucky 40601.

The Committee on Labor and Industry reported **HB 486**, **HB 505**, and **HB 518**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 486, AN ACT relating to the unemployment insurance program and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.510 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section and except ~~the[such]~~ money as has been credited to the account of this state in the unemployment trust fund under the provisions of Section 903 of the Social Security Act as amended, and appropriated by legislative action authorized thereunder for administrative expenses, money shall be requisitioned from the state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the secretary. The secretary, through the State Treasurer acting as his fiscal agent, shall from time to time requisition from the unemployment trust fund ~~the[such]~~ amounts not exceeding the amounts standing to this state's accounts therein, as he considers necessary for the payment of benefits for a reasonable future period.
- (2) The Governor may, at any time, pursuant to Section 1202 of the Social Security Act, request that funds be transferred from this state's account in the unemployment trust fund for repayment of part or all of that balance of advances made to the state under Section 1201 of the Social Security Act.
- (3) Upon receipt thereof the Treasurer shall deposit ~~the[such]~~ money in the benefit account and shall issue his vouchers for the payment of benefits solely from ~~the[such]~~ benefit account. Expenditures of ~~the[such]~~ money in the benefit account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All vouchers issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the approval in writing of the secretary of the Finance and Administration Cabinet.
- (4) Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which ~~the[such]~~ sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the secretary, shall be redeposited with the secretary of the federal Treasury to the credit of this state's account in the unemployment trust fund, as provided in KRS 341.500.
- (5) Notwithstanding the provisions of subsection (1) of this section to the contrary, money credited to the state under Section 903 of the Social Security Act as amended with respect to federal fiscal years 1999, 2000, and 2001, shall be used solely for the administration of the unemployment insurance program and not subject to appropriation by the General Assembly.

Section 2. Whereas the Cabinet for Workforce Development receives federal funds to administer the unemployment insurance program, but has been unable to access these funds for federal fiscal year 1999, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Section 3. Section 1 of this Act is retroactive to January 1, 2000.

HB 505, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:
 - (a) The worker~~[He]~~ has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered ~~[him]~~, or to return to the worker's~~[his]~~ customary self-employment when so directed by the secretary; or
 - (b) The worker~~[He]~~ has been discharged for misconduct or dishonesty connected with the worker's~~[his]~~ most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded the worker's~~[his]~~ most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
 - (c) The worker~~[He]~~ has left the~~[his]~~ most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded the~~[his]~~ most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:
 1. Leaving the~~[his]~~ next most recent suitable work which was concurrent with the worker's~~[his]~~ most recent work; ~~[, or for]~~
 2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from the worker's~~[his]~~ home to accept work which is less than one hundred (100) road miles from the worker's~~[his]~~ home; ~~[, or for otherwise]~~
 3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment;
 4. Leaving work as a consequence of circumstances directly resulting from the worker or child in the custody of the worker being a victim of domestic violence if the worker made reasonable efforts to preserve the employment; or
 5. Leaving work to accompany one's spouse to a different locale when the spouse is reassigned by the military.
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which the worker~~[he]~~ knowingly made a false statement to establish the worker's~~[his]~~ right to or the amount of the worker's~~[his]~~ benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.
- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by administrative regulations promulgated by the secretary, notifies the Cabinet for Workforce Development and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Cabinet for Workforce Development of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.
- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.
- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.
- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times the worker's~~[his]~~ weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United

States.

HB 518, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Injury" means any work-related traumatic event or series of ~~traumatic~~ events, including cumulative trauma and disfigurement, arising out of and in the course of employment which is ~~at the~~ proximate cause producing a harmful change in the human organism or any dormant, pre-existing nondisabling disease or condition that is aroused or brought into disabling reality by the work-related event or events evidenced by objective medical findings or medically acceptable clinical and laboratory diagnostic procedures. "Injury" ~~does not include the effects of the natural aging process, and~~ does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.
- (2) "Occupational disease" means a disease arising out of and in the course of the employment.
- (3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.
- (4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.
- (5) "Death" means death resulting from an injury or occupational disease.
- (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.
- (7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.
- (8) "Department" means the Department of Workers' Claims in the Labor Cabinet.
- (9) "Commissioner" means the commissioner of the Department of Workers' Claims.
- (10) "Board" means the Workers' Compensation Board.
- (11)
 - (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to the employee's usual and customary employment;
 - (b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating or disfigurement but retains the ability to perform work suitable to the employee's age, qualifications, and training; and
 - (c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has ~~a complete and~~ permanent inability to regularly and competitively perform ~~any type of~~ work suitable to the employee's age, qualifications, and training ~~as a result of an injury~~, except that total disability shall be irrebuttably presumed to exist for an injury that results in:
 1. Total and permanent loss of sight in both eyes;
 2. Loss of both feet at or above the ankle;
 3. Loss of both hands at or above the wrist;
 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
 5. Permanent ~~and complete~~ paralysis of both arms, both legs, or one (1) arm and one (1) leg;
 6. Incurable insanity or imbecility; or
 7. Total loss of hearing.
- (12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

- (13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.
- (14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.
- (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.
- (16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.
- (17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.
- (18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.
- (19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.
- (20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.
- (21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.
- (22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.
- (23)
 - (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.
 - (b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.
- (24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.
- (25)
 - (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not

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include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

- (b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.
 - (c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.
 - (d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.
- (26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.
- (27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).
- (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:
- (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.
 - (b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for

Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

- (c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.
 - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.
 - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).
 - (f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.
 - (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.
 - (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter.
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.
 - (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.
 - (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.
 - (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.
 - (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.
 - (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.
 - (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.
 - (36) "Permanent disability rating" means the permanent impairment rating selected by an ~~arbitrator or~~ administrative law judge ~~times the factor set forth in the table that appears at KRS 342.730(1)(b)).~~
 - (37) **"Board-certified" means certified in radiology or diagnostic roentgenology by the American Board of Radiology, Inc., or the American Osteopathic Association.**
 - (38) **"B-reader" means a radiologist or other physician who has demonstrated proficiency in assessing and classifying x-ray evidence of pneumoconiosis by successful completion of an examination conducted by or on behalf of the United**

States Department of Health and Human Services.

Section 2. KRS 342.0015 is amended to read as follows:

The substantive provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to any claim arising from an injury or last exposure to the hazards of an occupational disease occurring on or after December 12, 1996. Procedural provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to all claims irrespective of the date of injury or last exposure, including, but not exclusively, the mechanisms by which claims are decided and workers are referred for medical evaluations. The provisions of KRS 342.120(3), 342.125(8), 342.213(2)(e), 342.265, ~~342.270(7)~~, 342.320, 342.610(3), 342.760(4), and 342.990(11) are remedial.

Section 3. KRS 342.020 is amended to read as follows:

- (1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure ~~or~~ relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee. The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered. Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.
- (2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.
- (3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.
- (4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:
 - (a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;
 - (b) The employee shall be allowed choice of provider within the plan;
 - (c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;
 - (d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery or deems surgery unnecessary;
 - (e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;
 - (f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and
 - (g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.
 - (h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.
 - (i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.
- (5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to

appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

- (6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.
- (7) Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge ~~or arbitrator~~ by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge ~~or arbitrator~~ may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.
- (8) An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, ~~arbitrator,~~ or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.
- (9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 4. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than two (2) physicians without prior consent from the ~~arbitrator or~~ administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. The report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of the report and to cross-examine the reporting physician. The commissioner shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 5. KRS 342.040 is amended to read as follows:

- (1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid, except that if the ~~arbitrator or~~ administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the fifteenth day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer's insurance carrier or other party responsible for the payment of workers' compensation benefits should terminate or fail to make payments when due, that party shall notify the commissioner of the termination or failure to make payments and the commissioner shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.
- (2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the ~~arbitrator or~~ administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.
- (3) ~~All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the arbitrator~~

~~or administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semi-monthly.~~

- (4)} Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 6. KRS 342.090 is amended to read as follows:

Payment of death benefits in good faith to a supposed dependent or to a dependent subsequent in right to another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the ~~arbitrator or~~ administrative law judge shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability. If an appeal is taken from the order of the ~~arbitrator or~~ administrative law judge directing payment, persons receiving payment under such order shall furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

Section 7. KRS 342.120 is amended to read as follows:

- (1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.
- (2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.
- (3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge ~~or arbitrator~~. This provision is remedial and shall apply to all pending and future claims.

Section 8. KRS 342.1242 is amended to read as follows:

- (1) There is created the Division of the Kentucky Coal Workers' Pneumoconiosis Fund in the Department of Workplace Standards which shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration and legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.
- (2) The employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department of Workers' Claims.
- (3) The Kentucky coal workers' pneumoconiosis fund shall have one-half (1/2) of the liability for income benefits ~~including retraining benefits,~~ payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement until the liability of the Kentucky coal workers' pneumoconiosis fund is established under subsection (4) of this section and the coal workers' pneumoconiosis fund shall reimburse the employer for such payments to the extent of its liability.
- (4)
 - (a) For the purpose of funding and prefunding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.
 - (b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents (\$0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.
 - (c) As of September 1, 1997, and each year thereafter, the funding commission shall determine the assets of the fund

and the claim and administrative expense liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fully fund and prefund all claim liabilities and administrative expenses through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than December 1 of the year preceding the rate change.

- (5) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to a separate account within the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.
- (6) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.
- (7) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (8) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).

Section 9. KRS 342.125 is amended to read as follows:

- (1) Upon motion by any party or upon an ~~arbitrator's or~~ administrative law judge's own motion, an ~~arbitrator or~~ administrative law judge may reopen and review any award or order on any of the following grounds:
 - (a) Fraud;
 - (b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;
 - (c) Mistake; ~~and~~
 - (d) Change of disability as shown by objective medical evidence or medically acceptable clinical and laboratory diagnostic procedures of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.
 - (e) Dispute arising regarding the payment of medical expenses for the cure, relief, or treatment of an injury or occupational disease; and
 - (f) Temporary total disability due to the injury or occupational disease.
- (2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.
- (3) Except for reopening solely for determination of the compensability of medical expenses, fraud, ~~or conforming the award as set forth in KRS 342.730(1)(c)2,~~ or for reducing a permanent total disability award when an employee returns to work, no claim shall be reopened more than ten (10) ~~four (4)~~ years following the date of the original award or order granting or denying benefits, ~~or within two (2) years of such award or order, and no party may file a motion to reopen within two (2) years of any previous motion to reopen by the same party.~~
- (4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the ~~arbitrator or~~ administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The ~~arbitrator or~~ administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the ~~arbitrator or~~ administrative law judge.
- (5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee

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was continuously exposed to the hazards of the disease, the ~~arbitrator or~~ administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

- (b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of ~~off-retraining incentive benefits or~~ income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.
- (6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.
- (7) Where an agreement has become an award by approval of the ~~arbitrator or~~ administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the ~~arbitrator or the~~ administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.
- (8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to the effective date of this Act ~~December 12, 1996~~, may be reopened within ten (10) ~~four (4)~~ years of the award or order or within ten (10) ~~four (4)~~ years of the effective date of this Act ~~December 12, 1996~~, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.

Section 10. KRS 342.160 is amended to read as follows:

- (1) The benefits in case of death shall be paid to one (1) or more dependents of the deceased employee for the benefit of all the dependents entitled thereto, as determined by the ~~arbitrator or~~ administrative law judge. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of a mentally disabled person shall be paid to his guardian or conservator.
- (2) If the dependents are a widow, widower, or other head of a family of minor children and one (1) or more minor children, it shall be sufficient for the widow, widower, or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the guardian, conservator, or next friend of such dependents.

Section 11. KRS 342.205 is amended to read as follows:

- (1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the ~~arbitrator or~~ administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly-qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly-qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.
- (2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required by this subsection, shall be the same as, and in accordance with, state travel administrative regulations and standards promulgated and established pursuant to KRS Chapter 45.
- (3) If an employee refuses to submit himself to or in any way obstructs the examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.
- (4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the ~~arbitrator or~~ administrative law judge may require.
- (5) The department shall supply forms for the report.

Section 12. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, appoint the administrative law judges~~[-, arbitrators,]~~ and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.
- (2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:
 - (a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.
 - (b)
 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and
 2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.
 3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.
 - (c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.
 - (d) The members shall annually select a chairman of the nominating commission.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.
- (4) The commissioner shall monitor the workload of the administrative law judges~~[-, and arbitrators,]~~ and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges~~[-, and arbitrators,]~~, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the commissioner.
- (5)
 - (a) The Workers' Compensation Nominating Commission shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of administrative law judges~~[-, and arbitrators,]~~. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge~~[-, or arbitrator,]~~, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge~~[-, or arbitrator,]~~ shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge~~[-, and as an arbitrator,]~~.
 - (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7)
 - (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
 - (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names

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from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

- (8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 13. KRS 342.215 is amended to read as follows:

- (1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.
- (2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.
- (3) Each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his position prior to the expiration of his term. The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.
- (4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.
- (5) Members of the Workers' Compensation Board ~~[- arbitrators,]~~ and the administrative law judges shall be members of the Kentucky Employees Retirement System.
- (6) The Workers' Compensation Board is abolished effective on July 1, 2000, and as of midnight, June 30, 2000, the terms of all Workers' Compensation Board members shall end. Thereafter, appeals from the final orders of administrative law judges shall be directed to the Court of Appeals under the same standards set forth in this chapter for appeals to the Workers' Compensation Board.

Section 14. KRS 342.230 is amended to read as follows:

- (1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, ~~[- arbitrators,]~~ administrative law judges, and board members, shall be members of the classified service.
- (2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges ~~[- and arbitrators]~~ on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges ~~[- arbitrators,]~~ and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board ~~and the~~ administrative law judges ~~[- and arbitrators,]~~ annually report the activities of the board ~~and the~~ administrative law judges ~~[- and arbitrators]~~ to the Governor; and devote his full time to the duties of his office. The commissioner shall be paid a salary not less than the salary of a member of the board.
- (3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than sixteen (16) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case. ~~[- To carry out the intent of this chapter and to implement its provisions, the commissioner shall have the authority to assign the duties of an arbitrator to an administrative law judge who shall work in that capacity as deemed necessary by the commissioner.]~~

- (4) To ensure that the administrative law judges~~[and arbitrators]~~ perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.
- (5) The Governor may at any time remove the commissioner~~[or any member of the board. The commissioner may remove any administrative law judge or arbitrator]~~. A member of the board or an administrative law judge~~[or an arbitrator]~~ may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge~~[an arbitrator]~~, or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.
- (6) Any vacancy in the term of an administrative law judge~~[or an arbitrator]~~, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.
- (7)
 - (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
 - (b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
- (8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars (\$3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.
- ~~[(9) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years except as set forth in subsection (11) of this section, not more than eight (8) arbitrators, each of whom shall have extensive knowledge in workers' compensation law and shall be paid the same salary as a District Judge. Each arbitrator may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an arbitrator, shall provide the name of the individual he intends to appoint to the position to the chairman of the Senate Economic Development and Labor Committee. The arbitrators shall conduct benefit review conferences, shall supervise the presentation of evidence, and shall render final decisions, orders, and awards. Arbitrators may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented as will expedite the preparation of the case.]~~
- ~~[(10) One (1) of the arbitrators appointed pursuant to this section shall be appointed chief arbitrator and in addition to the duties otherwise assigned arbitrators shall assist the commissioner in the scheduling of the activities of the arbitrators and in the supervision and training of arbitrators. The chief arbitrator shall be paid the same rate as the arbitrators plus an additional two thousand dollars (\$2,000) per year. At any time, the commissioner may replace the chief arbitrator with one (1) of the other arbitrators at which time the former chief arbitrator shall resume the duties assigned to the other arbitrators pursuant to this chapter.]~~
- ~~[(11)

 - (a) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1997. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.
 - (b) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1999. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.]~~

Section 15. KRS 342.240 is amended to read as follows:

The department shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and

shall be provided necessary office furniture to be paid for by the state. The commissioner shall provide necessary supplies, books, periodicals, and maps and shall provide a seal for the authentication of orders, awards, or proceedings of the ~~the arbitrators and~~ administrative law judges, on which shall be inserted the words "Department of Workers' Claims, State of Kentucky, official seal." The board, ~~the arbitrators,~~ and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the commissioner, all actions or proceedings against the board or a member in his official capacity, or against an ~~arbitrator or~~ administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 16. KRS 342.245 is amended to read as follows:

All proceedings of the board, ~~arbitrators,~~ and the administrative law judges shall be recorded in books kept for that purpose by the commissioner, which shall constitute a public record and shall contain an entry of each case, claim, or proceeding considered, heard or passed upon by each ~~arbitrator,~~ administrative law judge, ~~and~~ the board, with the award, finding or decisions made thereon.

Section 17. KRS 342.260 is amended to read as follows:

- (1) The commissioner shall prepare administrative regulations as he considers necessary to carry on the work of the department and the work of the ~~arbitrators and~~ administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.
- (2) The commissioner shall develop or adopt life expectancy tables for use in making computations for the apportionment of benefits under KRS 342.120, computation of attorneys' fees under KRS 342.320, and for use in all other situations arising under this chapter in which the calculation of a life expectancy is necessary or desirable, including the computation of assessments or reserves for self-insurers. The commissioner may adopt life tables published by the United States Department of Health and Human Services or other life tables developed by a qualified entity, as determined by the commissioner. The life tables designated by the commissioner through administrative regulation in effect as of the date of an opinion, award, or settlement approved by an ~~arbitrator or~~ administrative law judge shall apply to computations concerning that opinion, award, or settlement.
- (3) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof or any ~~arbitrator or~~ administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined those parts of the books and records of the parties to a proceeding as relate to questions in dispute.
- (4) The sheriff shall serve all subpoenas of the board, ~~arbitrators,~~ and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to the subpoena of the board or any ~~arbitrator or~~ administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.
- (5) The Circuit Court shall, on application of the board, any member thereof, or any ~~arbitrator or~~ administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 18. KRS 342.265 is amended to read as follows:

- (1) If the employee and employer and special fund or any of them reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement signed by the parties or their representatives shall be filed with the commissioner, and, if approved by an ~~arbitrator or~~ administrative law judge, shall be enforceable pursuant to KRS 342.305. Where all parties have not joined in the settlement agreement, it shall not be approved unless it is certified that the party not participating in the settlement has been served with a copy of the agreement not less than ten (10) days prior to submission of the agreement for approval. This provision shall not be construed to prevent the voluntary payment of compensation for the periods and in the amounts prescribed by this chapter, but nothing shall operate as a final settlement except a memorandum of agreement filed with the commissioner and approved by the ~~arbitrator or~~ administrative law judge. Upon claims settled after December 12, 1996, the special fund shall have the option of settling its liability for income benefits on the same terms as those reached between the employee and employer. Notice of the special fund exercise of the option granted in this subsection shall be made by letter of the director of the special fund mailed to the parties within ten (10) days of receipt by the director of a copy of the agreement.
- (2) Settlement agreements concluded after March 31, 1997, providing for commuted lump-sum payment of future income benefits which would otherwise be payable in amounts greater than one hundred ten ~~ten~~ dollars ~~(\$100)~~ ~~(\$10)~~ per week shall not be approved unless there is reasonable assurance that the worker will have an adequate source of income during disability. This subsection is remedial and applies to all pending and future claims.
- (3) Upon lump-sum settlement of future periodic payments, the discount rate used in the calculation of the settlement amount shall not exceed a reasonable amount fixed by the commissioner. For settlements approved after December 12, 1996, until December 31, 1997, the true discount rate shall be six percent (6%) compounded annually on each payment. Before January 1 of each year commencing in 1998, the commissioner shall fix the discount rate to be utilized in the succeeding

year based upon the interest rate paid upon ten (10) year United States Treasury Notes as of July 1 of the preceding year.

- (4) If the parties have previously filed an agreement which has been approved by the administrative law judge~~[or arbitrator]~~, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.
- (5) An application for resolution of claim shall be held in abeyance during any period voluntary payments of income benefits are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 19. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in unfair claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars (\$1,000) to five thousand dollars (\$5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier. The remedies under KRS 446.070 shall be available to the employee for any violation of KRS 304.12-230.

Section 20. KRS 342.270 is amended to read as follows:

- (1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all known accrued causes of action will result in such claims being barred under this chapter as waived by the employee.
- (2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an administrative law judge~~[arbitrator for benefit review]~~. The administrative law judge~~[arbitrator]~~ shall facilitate the exchange of information pertinent to the claim, benefit settlement conference, and hearings pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.
- ~~(3) (a) The arbitrator shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation.~~
- ~~(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.~~
- ~~(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.~~
- ~~(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.~~
- ~~(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.~~
- ~~(7) Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.]~~

Section 21. KRS 342.275 is amended to read as follows:

- ~~(1) Within thirty (30) days after the filing of the benefit review determination with the commissioner, any party may appeal that determination by filing a request for hearing before an administrative law judge. Proceedings before the administrative law judge shall be de novo but subject to penalties for unreasonable proceedings under KRS 342.310.~~
- ~~(2) The commissioner shall promptly issue notice of the assignment of the claim to an administrative law judge, time for presentation of proof and of the time and place of a benefit settlement conference and a hearing. The benefit settlement conference shall be conducted by telephone or the administrative law judge may order the parties to appear. If settlement is not reached at the benefit settlement conference, the administrative law judge shall enter an order~~

~~*scheduling time for presentation of proof on medical and other unresolved issues, and set the matter for hearing*~~
~~[administrative law judge may confer informally with the parties for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposition of the case].~~

- (2)(3) The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the commissioner. The administrative law judge shall render the award, order, or decision within sixty (60) days following the final hearing unless extension is mutually agreed to by all parties. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute.

Section 22. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order, or decision any party may file a petition for reconsideration of the award, order, or decision of the ~~[arbitrator or]~~ administrative law judge. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The administrative law judge shall be limited in the review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make any correction within ten (10) days after submission.

Section 23. KRS 342.305 is amended to read as follows:

Any party in interest may file in the Circuit Court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the ~~[arbitrator or]~~ administrative law judge, or of an order or decision of the ~~[arbitrator,]~~ administrative law judge, or board, or of an award of the ~~[arbitrator or]~~ administrative law judge unappealed from, or of an award of the board rendered upon an appeal whether or not there is a motion to reopen or review pending under KRS 342.125. The court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though it had been rendered in a suit duly heard and determined by that court. Any such judgment, unappealed from or affirmed on appeal or modified in obedience to the mandate of the Court of Appeals, shall be modified to conform to any decision of the ~~[arbitrator or]~~ administrative law judge ending, diminishing, or increasing any weekly payment under the provisions of KRS 342.125 upon a presentation to it of a certified copy of such decision.

Section 24. KRS 342.310 is amended to read as follows:

- (1) If any ~~[arbitrator,]~~ administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, he or it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted, or defended them.
- (2) If any ~~[arbitrator,]~~ administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that a party has committed acts in violation of KRS 342.335(1) or (2), that party may be ordered to make restitution for any compensation paid as a result of the commission of such acts.

Section 25. KRS 342.315 is amended to read as follows:

- (1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools ***only when an administrative law judge finds***~~[whenever]~~ ***a complicated or unusual*** medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. ~~[The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.]~~
- (3) The ~~[commissioner, an arbitrator, or an]~~ administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to

this section for which the carrier has been erroneously compelled to make payment.

~~[(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.]~~

Section 26. KRS 342.316 is amended to read as follows:

- (1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator; and
- (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.
- (2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, or a diagnosis of the disease is first communicated to him, whichever shall first occur.
- (3) The procedure for filing occupational disease claims shall be as follows:
 - (a) The application for resolution of a claim for benefits under subsection (1)(a) of Section 35 of this Act shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include ~~two (2)~~ at least one (1) written medical ~~reports~~ report supporting ~~the~~ this claim. ~~The~~ This medical ~~reports~~ report shall be made on the basis of ~~two (2) separate chest~~ clinical or X-ray ~~examinations~~ examination performed in accordance with accepted medical standards ~~and shall contain full and complete statements of all examinations performed and the results thereof.~~ The report shall be made by ~~two (2)~~ a duly-licensed ~~board-certified radiologist physicians or by two (2) duly licensed physicians holding B-reader certificates, or one (1) report shall be made by each~~ physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.
 - ~~1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination as well as spirometric tests when pulmonary dysfunction is alleged.~~
 - ~~2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.]~~
 - (b) All other applications for resolution of claims shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting the claim. The medical report shall be made on the basis of clinical or x-ray examinations performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results of those examinations. The report shall be made by a duly licensed physician. The commissioner shall promulgate administrative regulations that prescribe the format of the medical report required by this section and the manner in which the report shall be completed.
 - (c) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:
 1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

2. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.
 3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.
 4. The procedure for determination of occupational disease claims shall be as follows:
 - a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.
 - b. The commissioner shall assign the claim to an administrative law judge~~arbitrator~~ and the administrative law judge shall determine whether an evaluation as prescribed in Section 25 of this Act is necessary, in which event the administrative law judge may~~promptly~~ refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the administrative law judge~~commissioner~~ for examination within two (2) years following any prior referral for examination for the same disease.
 - c. Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial.
 - d. The administrative law judge~~arbitrator~~ shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit settlement~~review~~ conference, or to take such other action as may be appropriate to resolve the claim.
 - e. Unless a voluntary settlement is reached by the parties, the administrative law judge~~arbitrator~~ shall issue a written determination within ninety (90) days following assignment of the claim. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.
 5. The procedure for appeal from a determination of an administrative law judge~~arbitrator~~ shall be as set forth in KRS 342.285~~[342.275]~~.
- (4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or if the incurrance of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.
- (b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years

immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

- (5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:
 - (a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;
 - (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and
 - (c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).
- (6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.
- (7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his knowledge, the previous state of his health.
- (8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.
- (9) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.
- (10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.
- (11)
 - (a) Income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.
 - (b) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.
- (12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.

Section 27. KRS 342.320 is amended to read as follows:

- (1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge ~~or arbitrator~~ pursuant to the statutes and administrative regulations.
- (2) Attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:
 - (a) ~~Twenty percent (20%) of the award not to exceed two thousand dollars (\$2,000) for services performed up to and including the date of a written determination by the arbitrator. This fee shall be paid by the employee from the proceeds of the award or settlement.~~
 - (b) ~~Upon an appeal by an employee.] From [a written determination of an arbitrator or]~~ an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars

(\$25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars (\$15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars (\$10,000). This fee shall be paid by the employee from the proceeds of the award or settlement ~~and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.~~

~~(b)(c)~~ Upon an appeal by an employer or carrier from ~~a written determination of an arbitrator or~~ an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall fix an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars (\$5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under paragraph (a) ~~paragraphs (a) and (b)~~ of this subsection.

~~(c)(d)~~ Attorney-client employment contracts entered into and signed prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996, shall not be subject to the conditions of paragraphs (a), (b), and (c) of this subsection, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply.

(3) *A reasonable attorney fee including deposition costs, court reporter fees, physician expenses for reports or depositions and all other out-of-pocket expenses shall be awarded by an administrative law judge for services under this chapter on behalf of an employee where there is no award for income benefits, but there is a favorable award for the employee or the employee's medical provider in a contested medical fee dispute, a contested dispute over medical treatment, or a contested claim over medical coverage under KRS 342.020. The fees shall be paid by the employer or carrier and shall be in addition to fees awarded under subsection (2) of this section.*

(4) In approving an allowance of attorney's fees, the administrative law judge ~~or arbitrator~~ shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court. ~~The date of injury or last exposure shall control the applicable maximum attorney's fee.~~

~~(5)(4)~~ No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the ~~arbitrator or~~ administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the written determination of ~~the (an arbitrator or)~~ last appealable order of an administrative law judge. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

- (a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or
- (b) The ~~arbitrator or~~ administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

~~(6)(5)~~ At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

~~(7)(6)~~ The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge ~~and arbitrator~~ shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

~~(8)(7)~~ In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the ~~arbitrator or~~ administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the ~~arbitrator or~~ administrative law judge shall consider the factors set forth in subsection ~~(4)(3)~~ of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded, with the exception of those situations referred to in subsection (3) of this section in which event a reasonable attorney fee shall be awarded and paid accordingly. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection ~~(2)(a)(b) and subsection (3)~~ of this section applicable to any additional amount recovered.

~~(9)(8)~~ Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge ~~or arbitrator~~ in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the same limitations as to maximum fees at each level

except that fees for representation before administrative law judges shall not exceed ten thousand dollars (\$10,000) ~~and fees for representation before arbitrators shall not exceed two thousand dollars (\$2,000)~~. Fees for representing employers shall not be dependent upon the result achieved. Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars (\$1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

~~[(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter.]~~

Section 28. KRS 342.325 is amended to read as follows:

All questions arising under this chapter, if not settled by agreement of the parties interested therein, with the approval of the ~~arbitrator or~~ administrative law judge, shall be determined by the ~~arbitrator or~~ administrative law judge except as otherwise provided in this chapter.

Section 29. KRS 342.435 is amended to read as follows:

Annually on or before the fifteenth day of December, the commissioner shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each ~~arbitrator and~~ administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the commissioner deems proper to call to the attention of the Governor, including any recommendations he may have to make, and it shall be the duty of the commissioner to publish and distribute among employers and employees any general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to the provisions of the general laws governing public printing applicable thereto.

Section 30. KRS 342.700 is amended to read as follows:

- (1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against the other person to recover damages, or proceed both against the employer for compensation and the other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against the other person to recover damages, he shall give due and timely notice to the employer and the special fund of the filing of the action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).
- (2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays the compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall the claim be barred by limitations, if the claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an ~~arbitrator or~~ administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.
- (3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for that waiver of remedies.

Section 31. KRS 342.710 is amended to read as follows:

- (1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

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- (2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.
- (3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the ~~arbitrator or~~ administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The ~~arbitrator or~~ administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the ~~arbitrator or~~ administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the ~~arbitrator or~~ administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.
- (4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.
- (5) Refusal to accept rehabilitation pursuant to an order of an ~~arbitrator or~~ administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.
- (6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation and the Department for Employment Services of the Kentucky Cabinet for Workforce Development. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the ~~arbitrator or~~ administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.
- (7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 32. KRS 342.715 is amended to read as follows:

Notwithstanding the provisions of KRS 342.730, during the period the employee is eligible for permanent total disability benefits and is actively participating in a vocational or physical rehabilitation program, pursuant to an order of the ~~arbitrator or~~ administrative law judge, the employee's benefits shall be calculated by taking eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state's average weekly wage, times the permanent disability rating as determined in this chapter.

Section 33. KRS 342.730 is amended to read as follows:

- (1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:
 - (a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this

subsection.

- (b) For permanent partial disability, where an employee returns to work at a wage equal to or greater than the employee's pre-injury wage, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, unless the employee establishes a greater percentage of disability as determined under subsection (1) of Section 1 of this Act, in which event the benefits shall not exceed two (2) times the permanent impairment rating, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks subject to the provisions of paragraph (d) of this subsection. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph. ~~[factor set forth in the table that follows:~~

AMA Impairment	Factor
0 to 5%	0.75
6 to 10%	1.00
11 to 15%	1.25
16 to 20%	1.50
21 to 25%	1.75
26 to 30%	2.00
31 to 35%	2.25
36% and above	2.50]

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

- (c) For permanent, partial disability, except for all cases described in paragraph (b) of this subsection, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, or under subsection (1) of Section 1 of this Act, whichever is greater, for a maximum period from the date the disability arises, of four hundred twenty-five (425) weeks, subject, however, to the provisions of paragraph (d) of subsection (1) of this section. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph. Any temporary total disability period within the maximum period of permanent, partial disability benefits shall extend the maximum period of disability but shall not make a weekly benefit exceeding that determined in paragraph (d) of this subsection. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of disability

- ~~1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.~~
- ~~2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.~~
- ~~3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph].~~

- (d) For permanent partial disability, if an employee has a permanent impairment or disability rating greater than ~~[off]~~ fifty percent (50%) ~~[or less]~~ as a result of a work-related injury or occupational disease, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five

hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage~~], except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage], nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks[notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability].~~

- (e) **Nonwork-related impairment or disability and claims under Section 35 of this Act shall not be considered in determining whether the employee is impaired or disabled in excess of fifty percent (50%) for purposes of this subsection**~~[For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter].~~
- (2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.
- (3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:
- To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or
 - If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or
 - If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or
 - If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.
 - To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.
- (4) All income benefits payable pursuant to this chapter shall **be reduced by ten percent (10%) annually beginning**~~terminate]~~ as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, **until the income benefits have been reduced by not more than fifty percent (50%). The reduction that occurs initially shall be against the awarded amount of income benefits, and thereafter the annual reduction shall be made against the remaining benefit amount**~~for two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.~~
- (5) ~~All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability].~~
- ~~(5)(6)~~ All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

- ~~(6)~~~~(7)~~ If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

Section 34. KRS 342.7305 is amended to read as follows:

- (1) In all claims for occupational hearing loss caused by either a single incident of trauma or by repetitive exposure to hazardous noise over an extended period of employment, the extent of binaural hearing impairment shall be determined under the latest available edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment."
- (2) Income benefits payable for occupational hearing loss shall be as provided in KRS 342.730, except income benefits shall not be payable where the binaural hearing impairment converted to impairment of the whole person results in impairment of less than ~~four~~~~eight~~ percent ~~(4%)~~~~(8%)~~. No impairment percentage for tinnitus shall be considered in determining impairment to the whole person.
- ~~(3) The commissioner shall provide by administrative regulation for prompt referral of hearing loss claims for evaluation, for all medical reimbursement, and for prompt authorization of hearing enhancement devices.~~
- ~~(4)~~ When audiograms and other testing reveal a pattern of hearing loss compatible with that caused by hazardous noise exposure and the employee demonstrates repetitive exposure to hazardous noise in the workplace, there shall be a rebuttable presumption that the hearing impairment is an injury covered by this chapter, and the employer with whom the employee was last injuriously exposed to hazardous noise shall be exclusively liable for benefits.

Section 35. KRS 342.732 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, income benefits ~~and retraining incentive benefits~~ for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:
 - (a) If an employee has a radiographic classification of category 1/1 or higher excluding progressive massive fibrosis~~(1/2)~~, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by two (2) separate chest x-rays and reports~~(report)~~ of the x-rays~~(X-ray)~~ which conform~~(conforms)~~ to the standards for X-rays contained in subsection (3) of KRS 342.316, ~~and respiratory impairment resulting from exposure to coal mine dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association,~~ the employee shall be awarded income benefits~~a one (1) time only retraining incentive benefit~~ which shall be an amount equal to fifty~~sixty-six and two-thirds~~ percent (50%)~~((66 2/3%))~~ of the employee's average weekly wage as determined by KRS 342.740 but not more than fifty~~seventy-five~~ percent (50%)~~((75%))~~ of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks. ~~These benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking twenty-four (24) or more instruction hours per week in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars (\$5,000). The benefit shall not be paid for a period in which the employee ceases to participate in the program.~~ In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a). ~~The period of one hundred four (104) weeks during which this benefit is payable shall begin no later than the one hundred eightieth day after the order awarding the benefit becomes final. If an employee completes an approved program of training in less than one hundred four (104) weeks and that employee has accepted a bona fide offer of employment at a location more than fifty (50) miles from the employee's usual residence in the field for which the employee has been trained, the employee shall be paid in a lump sum for relocation the lesser of the sum of three thousand dollars (\$3,000) or the amount remaining in unpaid weekly training benefits as provided by this section.~~
 - (b) If it is determined that an employee has a radiographic classification of category 1/1 or 1/2, based on the latest ILO International Classification of Radiographics and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values off ~~less than~~ fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, the employee shall be awarded an income benefit that shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, but no more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740~~for category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has an occupational disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage multiplied by the disability rating of fifty percent (50%)~~

~~but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740]. The award shall be payable for a period not to exceed **two hundred eight (208)**~~four hundred twenty-five (425)~~ weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).~~

- (c) If it is determined that an employee has a radiographic classification of category 1/1 or 1/2~~2/1, 2/2, or 2/3~~ coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or category 2/1, 2/2, or 2/3~~3/2 or 3/3~~ pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values,~~there shall be an irrebuttable presumption that the employee is seventy-five percent (75%) disabled resulting from exposure to coal dust and~~ the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage~~multiplied by the disability rating of seventy-five percent (75%)~~ but not to exceed seventy-five percent (75%) of the state average weekly wage~~and not less than twenty percent (20%) of the state average weekly wage~~ as determined by KRS 342.740. The award shall be payable for a period not to exceed **four hundred twenty-five (425)**~~five hundred twenty (520)~~ weeks~~. Income benefits awarded under this paragraph shall be payable to the employee during the disability~~, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).
- (d) If it is determined that an employee has radiographic classification of 2/1, 2/2, or 2/3 coal workers~~3/2 or 3/3 occupational~~ pneumoconiosis based on the latest ILO International Classification of Radiographs, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or category 3/2 or 3/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values,~~progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and~~ the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five~~one hundred~~ percent (75%)~~((100%))~~ of the state average weekly wage~~and not less than twenty percent (20%) of the average weekly wage of the state~~ as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee for a period not to exceed five hundred twenty (520) weeks~~during such disability~~, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).
- (e) If it is determined that an employee has a radiographic classification of 3/2 or 3/3 coal workers' pneumoconiosis based on the latest ILO International Classification of Radiographics, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but no more than one hundred percent (100%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance or processing of coal as defined in subsection (23)(a) of Section 1 of this Act.**
- (2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.
- (3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge~~or arbitrator~~ that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge~~or arbitrator~~ shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.
- (4) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

Section 36. KRS 342.735 is amended to read as follows:

- (1) The commissioner shall promulgate administrative regulations to expedite the payment of temporary total disability and medical expense benefits.
- (2) The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.
- (3) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an ~~arbitrator or~~ administrative law judge on medical issues relating to the reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the ~~arbitrator or~~ administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.

Section 37. KRS 342.760 is amended to read as follows:

- (1) There is hereby authorized in the Labor Cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the Labor Cabinet shall be the custodian of the fund, and all moneys and securities in the fund shall be held in trust by the secretary of the Labor Cabinet and shall not be considered a part of the general funds of the state.
- (2) The secretary of the Labor Cabinet is authorized to disburse moneys from the fund only upon written order of the ~~arbitrator,~~ administrative law judge, or the board.
- (3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.
- (4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of all the amounts authorized to be paid therefrom under the authority of this subsection including reimbursement of the special fund of all liability apportioned to it and for the purposes of enforcing this liability the Labor Cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund. This provision shall apply to all pending claims upon which a final order has not been entered.
- (5) In furtherance of this purpose, the Attorney General shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The Labor Cabinet shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.
- (6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the State Treasury shall be transferred to the uninsured employers' fund created within the Labor Cabinet pursuant to this section.

Section 38. KRS 342.780 is amended to read as follows:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the ~~arbitrator or~~ administrative law judge shall, upon his own motion at any time before the rendition of the final award, cause the uninsured employers' fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340.

Section 39. KRS 342.790 is amended to read as follows:

When an award is made against an employer who:

- (1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer; and
- (2) Has not made a deposit of security, indemnity, or bond acceptable to the commissioner to secure the payment of compensation liability; and
- (3) Has failed to make payment of compensation according to the terms of that award, the award shall constitute a liquidated claim for damages against that employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the commissioner, and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against that employer in the name of the uninsured employers' fund for the collection of that award. In that action, it shall be sufficient for plaintiff to set forth a copy of the award of the ~~arbitrator or~~ administrative law judge relative to the claim as certified by the commissioner and to state that

there is due to plaintiff on account of the opinion, order, or award of the ~~arbitrator or~~ administrative law judge a specified sum which plaintiff claims with interest. A certified copy of the award in the claim shall be attached to the complaint and shall constitute prima facie evidence of the truth of the facts therein contained.

Section 40. KRS 342.990 is amended to read as follows:

- (1) The commissioner shall initiate enforcement of civil and criminal penalties imposed in this section.
- (2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) to (7) of this section, or criminal penalties pursuant to subsections (8) and (9) of this section, or both.
- (3) The commissioner shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.
- (4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.
- (5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge and in accordance with the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney representing the commissioner to prove the offense stated in the citation by a preponderance of the evidence. The parties shall stipulate to uncontested facts and issues prior to the hearing before the administrative law judge. The administrative law judge shall issue a ruling within sixty (60) days following the hearing.
- (6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit Court in conformity with KRS 13B.140.
- (7) The following civil penalties shall be applicable for violations of particular provisions of this chapter:
 - (a) Any employer, insurer, or payment obligor subject to this chapter who fails to make a report required by KRS 342.038 within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.
 - (b) Any employer, insurer, or payment obligor acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.
 - (c) Any person who violates KRS 342.020(9), 342.035(2), KRS 342.040, 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. With respect to employers who fail to maintain workers' compensation insurance coverage on their employees, each employee of the employer and each day of violation shall constitute a separate offense. With respect to KRS 342.040, any employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be fined for failure to notify the commissioner of a failure to make payments when due if a report indicating the reason payment of income benefits did not commence within twenty-one (21) days of the date the employer was notified of an alleged work-related injury or disease is not filed with the commissioner within twenty-one (21) days of the date the employer received notice, and if the employee has not returned to work within that period of time. The date of notice indicated in the report filed with the department pursuant to KRS 342.038(1), shall raise a rebuttable presumption of the date on which the employer received notice.
 - (d) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000) for each offense. With respect to KRS 342.395, each required notice of rejection form executed by an employee or potential employee of an employer shall constitute a separate offense.
 - (e) Any person who fails to comply with the data reporting provisions of administrative regulations promulgated by the commissioner pursuant to KRS 342.039, or with utilization review and medical bill audit administrative regulations promulgated pursuant to KRS 342.035(5), shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.
 - (f) Except as provided in paragraph (g) of this subsection, a person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less than or equal to three hundred dollars (\$300) shall be fined per occurrence not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.
 - (g) Any person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) exceeds three hundred dollars (\$300) shall be fined per occurrence not more than five thousand dollars (\$5,000) per individual nor ten thousand dollars (\$10,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.
 - (h) Any person who violates the employee leasing provision of this chapter shall be fined not less than five hundred

dollars (\$500) nor more than five thousand dollars (\$5,000) for each violation.

- (i) Any violation of the provisions of this chapter relating to self-insureds shall constitute grounds for decertification of such self-insured, a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per occurrence, or both.
- (j) Actions to collect the civil penalties imposed under this subsection shall be instituted in the Franklin District Court and the Franklin Circuit Court.
- (8) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner shall certify the inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.
- (9) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:
 - (a) Any person who violates KRS 342.020(9), 342.035(2), 342.040, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or both.
 - (b) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.
 - (c) Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, general partner, agent, or representative of the foregoing who knowingly utilizes or participates in any employee leasing arrangement or mechanism as defined in KRS 342.615 for the purpose of depriving one (1) or more insurers of premium otherwise properly payable or for the purpose of depriving the Commonwealth of any tax or assessment due and owing and based upon said premium shall upon conviction thereof be subject to a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisonment for not more than one hundred eighty (180) days, or both, for each offense.
 - (d) Notwithstanding any other provisions of this chapter to the contrary, when any employer, insurance carrier, or individual self-insured fails to comply with this chapter for which a penalty is provided in subparagraphs (7), (8), and (9) above, such person, if the person is an owner in the case of a sole proprietorship, a partner in the case of a partnership, a principal in the case of a limited liability company, or a corporate officer in the case of a corporation, who knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be personally and individually liable, both jointly and severally, for the penalties imposed in the above cited subparagraphs. Neither the dissolution nor withdrawal of the corporation, partnership, or other entity from the state, nor the cessation of holding status as a proprietor, partner, principal, or officer shall discharge the foregoing liability of any person.
- (10) Fines paid pursuant to subsections (7) and (9) of this section shall be paid into the special fund.
- (11) In addition to the penalties provided in this section, the commissioner and any ~~arbitrator,~~ administrative law judge~~[,]~~ or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

Section 41. The substantive provisions of this Act shall apply to an injury or last exposure to the hazards of an occupational disease occurring on or after the effective date of this Act. Procedural provisions of this Act shall apply to all claims not adjudicated by an administrative law judge regardless of the date of injury or last exposure, including, but not limited to, the mechanisms by which claims are decided, limits on reopenings, and referrals of workers for medical evaluations.

The Committee Amendment No. 1 to **HB 518** is as follows:

On page 54, line 24, by deleting "including" and inserting in lieu thereof "plus".

The Committee on Transportation reported **HB 398**, with Committee Substitute attached thereto, **HB 482**, **HB 483**, **HJR 9**, **HJR 15**, **HJR 72**, and **HJR 76** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 398, AN ACT relating to boats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.410 is amended to read as follows:

As used in KRS 235.410 to 235.470, unless the context clearly indicates otherwise, the following words shall have the following meanings:

- (1) "Houseboat" means any recreational or pleasure-type vessel equipped with a marine sanitation device and which can be used as an overnight residence~~["Motorboat" means any vessel, except for a federally regulated commercial vessel,~~

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~~propelled by machinery, whether or not such machinery is the principal source of propulsion];~~

- (2) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
- (3) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever;
- (4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, vessels, or other places, together with such industrial wastes, underground, surface, storm or other water, as may be present;
- (5) "Industrial wastes" means liquid, or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource;
- (6) "Other wastes" means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage and all other foreign substances not included within the above definitions of industrial wastes and sewage which may cause or contribute to the pollution of any waters of the Commonwealth.

Section 2. KRS 235.430 is amended to read as follows:

No person shall dispose of sewage accumulated in a holding tank, a marine sanitation device, or other similar container on a houseboat~~vessel~~ in a manner that the sewage reaches or may reach the waters of the Commonwealth except for state waters into which discharges are allowed under federal law.

Section 3. KRS 235.440 is amended to read as follows:

No houseboat~~motorboat~~ equipped with marine toilet facilities shall be on the waters of the Commonwealth unless the houseboat~~motorboat~~ is equipped with a marine sanitation device.

The Committee Substitute No. 1 to **HB 398** is as follows:

HB 398, AN ACT relating to boats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.410 is amended to read as follows:

As used in KRS 235.410 to 235.470, unless the context clearly indicates otherwise, the following words shall have the following meanings:

- (1) "Houseboat" means any recreational or pleasure-type vessel, including but not limited to, cruisers, yachts, or runabouts equipped with a marine sanitation device and which can be used as an overnight residence~~"Motorboat" means any vessel, except for a federally regulated commercial vessel, propelled by machinery, whether or not such machinery is the principal source of propulsion];~~
- (2) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
- (3) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever;
- (4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, vessels, or other places, together with such industrial wastes, underground, surface, storm or other water, as may be present;
- (5) "Industrial wastes" means liquid, or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource;
- (6) "Other wastes" means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage and all other foreign substances not included within the above definitions of industrial wastes and sewage which may cause or contribute to the pollution of any waters of the Commonwealth.

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Section 3. KRS 235.440 is amended to read as follows:

No houseboat~~motorboat~~ equipped with marine toilet facilities shall be on the waters of the Commonwealth unless the houseboat~~motorboat~~ is equipped with a marine sanitation device.

HB 482, AN ACT relating to license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.240 is amended to read as follows:

- (1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and:
 - (a) Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260. The forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county, the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;
 - (b) Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; and
 - (c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes that shall contain:
 1. The registration number;
 2. The word "Kentucky;" and
 3. The name of the county in which the plate is issued, or in lieu thereof the words "Official," "Transportation," "Executive," or "Farm." Plates for commercial vehicles, shall contain the year the license expires and words or information the Department of Vehicle Regulation may prescribe by administrative regulation, pursuant to KRS Chapter 13A. Numerals indicating a year shall not be placed upon any license plate issued pursuant to KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and KRS 186.061, relating to the licensing of vehicles owned exclusively by a nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon the plate.
- (2) License plates issued pursuant to KRS 186.050(1) shall conform to the provisions of subsection (1)(c) of this section except:
 - (a) The word "Kentucky" shall be centered above the county name in which the plate is issued;
 - (b) The words "Bluegrass State" shall be centered at the top of the plate above the registration number; and
 - (c) The name of the county in which the plate is issued shall be centered in the lower portion of the plate below the registration number and shall be printed in letters that are the same size as those used to print the word "Kentucky." Beginning January 1, 1993, the Transportation Cabinet shall provide for the issuance of reflectorized plates for all motor vehicles, and shall collect a fee, in addition to the fee set out in KRS Chapter 186 and KRS 281.860, of fifty cents (\$0.50). The fifty cents (\$0.50) fee to reflectorize license plates shall be used by the cabinet as provided in subsection (3) of this section;
- (3) The reflectorized license plate program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys as provided in this subsection. The fifty cents (\$0.50) fee collected by the cabinet to reflectorize license plates shall be deposited into the program fund and used to issue reflectorized license plates every five (5) years. If at the end of a fiscal year, money remains in the program fund, it shall be retained in the fund and shall not revert to the state road fund. The interest and income earned on money in the program fund shall also be retained in the program fund to carry out the provisions of this subsection. The Transportation Cabinet shall begin issuing the new reflectorized license plate under the provisions of this subsection on January 1, 2003, and shall continue to issue a new reflectorized license plate every five (5) years thereafter;
 - ~~(a) Upon initial application or registration renewal in calendar year 1991, persons registering a motor vehicle according to KRS 186.050(1) or (3)(a) shall receive a "bicentennial" license plate, in lieu of the registration plate described in subsection (2) of this section. Applications shall be accompanied by payment of the regular registration fee;~~
 - ~~(b) The "bicentennial" license plate shall be designed by the Bicentennial Commission and approved by the Transportation Cabinet and shall be issued for calendar year 1991 and shall expire at the end of the applicant's renewal month in 1993 and shall not be renewable thereafter. At the time of renewal in 1992, the clerk shall issue a renewal decal designed by the commission and as approved by the Transportation Cabinet;~~
 - ~~(c) The registration plate under this subsection shall be issued for a period of two (2) years, replacing the regular registration plate, and shall be subject to the registration provisions of KRS Chapter 186, the provisions of this section notwithstanding;~~
- (4) Except as directed under subsection (3) of this section, the Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn it over to the State Treasurer for the benefit of the state road fund;
- (5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates, and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The

secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071; and

- (6) When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

HB 483, AN ACT relating to state traffic school.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.574 is amended to read as follows:

- (1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).
- (2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.
- (3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.
- (4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars (\$15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.
- (5) The following procedures shall govern persons attending state traffic school pursuant to this section:
- (a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;
- (b) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;
- (c) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;
- (d) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school more than once in any ~~one (1)~~~~two (2)~~ year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and
- (e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

HJR 9, A JOINT RESOLUTION directing the Transportation Cabinet to name KY 101 from the Beaver Dam Chapel to KY 259 at Rhoda and KY 259 from Rhoda to KY 70 the "Veterans Memorial Highway" and to erect appropriate highway signs.

WHEREAS, it is the Armed Forces that defend our great nation from foreign powers that act against our national interests and seek to tarnish the principles of freedom and justice; and

WHEREAS, countless servicemen have sacrificed their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, hundreds of patriotic men and women of Edmonson County have answered their nation's call to service in times of great need; and

WHEREAS, our veterans deserve our gratitude and recognition for their devotion and service to our Commonwealth and our nation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name KY 101 from the Beaver Dam Chapel to KY 259 at Rhoda and KY 259 from Rhoda to KY 70 the "Veterans Memorial Highway".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Veterans Memorial Highway" to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and the District Highway Engineer in Bowling Green, Kentucky.

HJR 15, A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge currently under construction connecting US 25E and US 119 over the Cumberland River in honor of Joan Asher Cawood.

WHEREAS, Joan Asher Cawood, who was born on November 20, 1934, in Bell County, Kentucky, is the fourth generation of the Asher family to serve the people of Bell County, Eastern Kentucky, and the entire Commonwealth through public service both as elected officials and in appointed posts; and

WHEREAS, the Asher family name has become synonymous with development through the family's efforts in establishing the first railroad from Pikeville to Harlan and the building of roads and bridges that helped open up an isolated region; and

WHEREAS, Joan Asher Cawood's great-grandfather, Thomas Jefferson Asher, whose work in the coal and railroad industries helped provide jobs and foster development in Eastern Kentucky, was elected in 1913 by the citizens of Bell County to the office of County Judge and served without accepting a salary; and

WHEREAS, Joan Asher Cawood's grandfather, Hugh Howard Asher, served as State Highway Commissioner in the 1920's and later served as the Chairman of the Republican Party in Bell County; and

WHEREAS, Joan Asher Cawood's father, Thomas Edward Asher, was elected to serve as both Magistrate and Jailer in Bell County, served as Chief U.S. Marshal for the Eastern District of Kentucky from 1969 until his retirement in 1977, served as Republican Party Chairman, and was named to the Republican Hall of Fame in the 5th Congressional District for his extraordinary public service; and

WHEREAS, Joan Asher Cawood's contribution to her family's long history of public service began with her election as Bell County Clerk in 1977; and

WHEREAS, Joan Asher Cawood continues her uninterrupted service to the people of Bell County as County Clerk to this day; and

WHEREAS, Joan Asher Cawood, in the most recent election of 1998, was elected by the largest margin in a county election in the history of Bell County; and

WHEREAS, Joan Asher Cawood is a devoted and loving mother of three fine sons: Paul C. Cawood, Jr., William E. Cawood, and Howard A. Cawood; and

WHEREAS, Joan Asher Cawood has also been an active force in the civic and community life of Bell County through her involvement in the First Presbyterian Church, the Business and Professional Women's Club, and the Republican Women's Organization, among other organizations; and

WHEREAS, the accomplishments and service of Joan Asher Cawood and the entire Asher family deserve lasting recognition;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the bridge currently under construction connecting US 25E and US 119 over the Cumberland River the "Joan Asher Cawood Bridge".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Joan Asher Cawood Bridge" to facilitate their erection upon completion of the bridge.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and to the District Highway Engineer in Manchester, Kentucky.

HJR 72, A JOINT RESOLUTION directing the Transportation Cabinet to name a portion of Kentucky Route 15 in Perry County in memory of Edward L. "Buggy" Clemons.

WHEREAS, Edward L. "Buggy" Clemons was a life-long resident of Hazard, Kentucky; and

WHEREAS, Edward L. "Buggy" Clemons was a tireless supporter of local schools and was very involved in myriad civic organizations; and

WHEREAS, Edward L. "Buggy" Clemons, as a prominent local businessman, was a major employer in Perry County;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the portion of Kentucky Route 15 in Perry County from Hazard High School to Hazard Community College the "Edward L. "Buggy" Clemons Memorial Highway".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Edward L. "Buggy" Clemons Memorial Highway" to facilitate their erection upon the effective date of this Resolution.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to the Secretary of the Transportation Cabinet and to the District Highway Engineer in Jackson, Kentucky.

HJR 76, A JOINT RESOLUTION directing the Transportation Cabinet to rename Kentucky Route 168 in Boyd County in honor of former County Judge/Executive Paul F. Purvis.

WHEREAS, Paul F. Purvis became a resident of the City of Ashland in Boyd County at the age of three (3); and

WHEREAS, Paul F. Purvis worked and owned Valley Auto Supply in Ashland for many years; and

WHEREAS, Paul F. Purvis has been a dedicated activist in civic, community, and religious organizations for over forty-five (45) years; and

WHEREAS, Paul F. Purvis began his political career in 1973 when he was elected Boyd County Commissioner; and

WHEREAS, recognized as an altruistic public servant, the citizens of Boyd County elected Paul F. Purvis County Judge/Executive in 1977; and

WHEREAS, Paul F. Purvis served two (2) terms as Boyd County Judge/Executive before retiring from elected office;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall rename Kentucky Route 168 in Boyd County, from the junction with United States Route 23 at Catlettsburg to the junction with United States Route 23 north of the City of Ashland, in honor of former County Judge/Executive Paul F. Purvis.

Section 2. The Transportation Cabinet is directed to erect signs at each junction mentioned in Section 1 of this Resolution that read as follows: "The Paul F. Purvis Highway". The signs shall be erected within thirty (30) days of the effective date of this Resolution.

The Committee on Licensing and Occupations reported **HB 499**, with Committee Amendment attached thereto, and **HB 503** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 499, AN ACT relating to errors and omissions insurance for real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324A.010 TO 324A.090 IS CREATED TO READ AS FOLLOWS:

- (1) All persons certified or licensed by the board under this chapter, except those whose certificates or licenses are in escrow in accordance with KRS 324A.047(1), shall carry errors and omissions insurance to cover all activities contemplated under this chapter.**
- (2) The board shall make the insurance mandated under this section available to all certificate holders and licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.**
- (3) Any policy obtained by the board shall be available to all certificate holders and licensees with no right on the part of the insurance provider to cancel any certificate holder or licensee.**
- (4) Certificate holders and licensees shall have the option of obtaining errors and omissions insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the board.**

- (5) The board shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.
- (6) Each certificate holder and licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty (30) days prior to the annual certificate or license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the board by the annual licensee renewal date by each certificate holder or licensee who opts not to participate in the group insurance programs administered by the board.
- (7) If the board is unable to obtain errors and omissions insurance coverage to insure all certificate holders and licensees who choose to participate in the group insurance program at a reasonable annual premium, not to exceed five hundred dollars (\$500), the insurance requirement mandated by this section shall be void during the applicable contract year.
- (8) The errors and omissions insurance mandated by this section shall become effective July 1, 2001.

The Committee Amendment No. 1 to **HB 499** is as follows:

On page 1, line 4, after "**KRS 324A.047(1)**", by inserting the following; "and those who are salaried employees of the federal or state government and do not perform fee appraisals";

On page 1, line 25, after "annual", by deleting the word "licensee".

HB 503, AN ACT relating to real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.025 is amended to read as follows:

- (1) The board shall elect a chairman each year at the first meeting called after appointment of new members. A majority of the board shall constitute a quorum and may exercise all powers and duties established by the provisions of KRS 324A.020.
- (2) The board shall meet at least once each calendar quarter.
- (3) Each member of the board shall receive actual and necessary expenses and mileage and shall receive one hundred dollars (\$100) per day as compensation for each day spent on duties as a member of the board. ~~{ The board shall receive administrative and staff support from the Kentucky Real Estate Commission. If the support provision of this subsection or the application thereof is determined not to conform with federal law or the regulations promulgated thereunder, the board shall receive administrative and staff support from the Division of Occupations and Professions in the Finance and Administration Cabinet. }~~

The Committee on Natural Resources and Environment reported **HB 407**, with Committee Amendments attached thereto, **HJR 70**, with Committee Substitute attached thereto, and **SCR 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 407, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

- (1) "Department" means the Department of Mines and Minerals as defined in KRS 351.010;
- (2) "Commissioner" means the commissioner of the Department of Mines and Minerals as defined in KRS 351.010;
- (3) "Director" means the director of oil and gas conservation as provided in KRS 353.530;
- (4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;
- (5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof;
- (7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;
- (8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this

section as oil;

- (9) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool" as used herein;
- (10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;
- (11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;
- (12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;
- (13) "Workable bed" means:
 - (a) A coal bed actually being operated commercially;
 - (b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or
 - (c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;
- (14) "Well" means a borehole drilled, shaft driven, or hole dug or such proposed ~~[to be drilled]~~ for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced, or otherwise used ~~[a borehole drilled or proposed to be drilled]~~ for the purpose of injecting any water, gas, or other fluid therein or one into which any water, gas, or other fluid is being injected;
- (15) "Shallow well" means any well drilled and completed at a depth less than four thousand (4,000) feet except, in the case of any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth less than four thousand (4,000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;
- (16) "Deep well" means any well drilled and completed below the depth herein provided for a shallow well;
- (17) "Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth (1/8) interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;
- (18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subsection (17) of this section;
- (19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable oil or gas in such area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, such area shall be a drilling unit;
- (20) "Underground source of drinking water" means those subsurface waters identified as such in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;
- (21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the underground injection of natural gas for purposes of storage;
- (22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;
- (23) "Class II well" means wells which inject fluids:
 - (a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
 - (b) For enhanced recovery of oil or natural gas; and

- (c) For storage of hydrocarbons which are liquid at standard temperature and pressure;
- (24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

Section 2. KRS 353.565 is amended to read as follows:

- (1) There is hereby created in the Department of Mines and Minerals, the "Kentucky Oil and Gas Conservation Commission" which shall be composed of five (5) members. Four (4) of the members shall be appointed by the Governor and the fifth member, who shall serve as chairman of the commission, shall be the director of oil and gas conservation and who shall serve in an ex officio capacity as a nonvoting member except in the case of a tie. The four (4) members appointed by the Governor shall be residents of this state and not more than one (1) of them may be directly employed in the exploration for or the production of oil or gas, or deriving more than fifty percent (50%) of that person's income from the exploration for or production of oil or gas, or engaged in a business directly servicing or supplying these activities. No member of the commission shall participate in the deliberations of the commission or vote on any matter before the commission in which he, his employer, or any business unit in which he has a financial interest is an interested party, but a member of the commission is not prohibited from deliberating or voting on matters of general interest, such as the fixing of statewide spacing patterns, affecting him, his employer, or a business unit in which he has financial interest as a member of a class of persons to be affected by an administrative regulation or order of the commission. The commission shall not contain more than one (1) representative from any one (1) operator, including subsidiaries or affiliates. Of the four (4) members appointed by the Governor, two (2) shall be residents of eastern Kentucky and two (2) shall be residents of western Kentucky. Longitude 84 deg. 30 min. shall be deemed as the division line between eastern Kentucky and western Kentucky.
- (2) The members of the commission, except the chairman, shall be appointed for terms of four (4) years each, except that:
- (a) The original appointments shall be for terms of one (1), two (2), three (3), and four (4) years respectively; and
- (b) Of the members appointed after July 15, 1998, one (1) member appointed to fill the term expiring June 21, 1999, shall serve until January 21, 2000; one (1) member appointed to fill the term expiring June 21, 2000, shall serve until January 21, 2001; one (1) member appointed to fill one (1) of the two (2) terms expiring June 21, 2001, shall serve until January 21, 2002; and one (1) member appointed to fill the second of the two (2) terms expiring June 21, 2001, shall serve until January 21, 2003; and subsequent appointments shall be for four (4) year terms ending on January 21. Each member appointed by the Governor shall serve until his successor has been appointed and qualified. Members may be reappointed by the Governor to serve successive terms. The members of the commission, before performing any duty hereunder, shall take an oath which shall be certified by the officer administering it. The oath in writing and the certificate shall be filed in the office of the Secretary of State. Vacancies in the membership appointed by the Governor shall be filled by appointment by him and for the unexpired term of the member whose office shall be vacant, and the appointment shall be made by the Governor within sixty (60) days of the occurrence of a vacancy. Any member appointed by the Governor may be removed by the Governor in case of incompetency, neglect of duty, gross immorality, or malfeasance of office.
- (3) The commission shall meet at times and places as shall be designated by the chairman. The chairman may call a meeting of the commission at any time, and he shall call a meeting of the commission upon the written request of two (2) members. Notification of each meeting shall be given in writing to each member by the chairman at least five (5) days in advance of the meeting. Any three (3) members, one (1) of which may be the chairman, shall constitute a quorum for the transaction of any business, including the holding of hearings. A majority of the commission present shall be required to determine any issue brought before it for decision.
- (4) Each member of the commission, except the chairman, shall receive one hundred fifty dollars ~~(\$150)~~~~(\$50)~~ per diem not to exceed one hundred (100) days per calendar year while actually engaged in the performance of his duties as a member of the commission. Each member of the commission, including the chairman, shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.
- (5) The commission shall execute and carry out, administer, and enforce the provisions of KRS 353.651 and 353.652. The commission may make any investigation of records and facilities as it deems proper.
- (6) If an emergency is found to exist by the commission which, in its judgment, requires the making, changing, renewal, or extension of an administrative regulation or order without first having a hearing, an emergency regulation may be promulgated in accordance with KRS Chapter 13A and an emergency order may be issued in accordance with KRS 13B.125.
- (7) The commission shall have specific authority to:
- (a) Promulgate and enforce reasonable administrative regulations and issue orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commission, and otherwise administer the provisions of KRS 353.651 and 353.652; and
- (b) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, and other pertinent documents, and administer oaths and affirmations to

witnesses, whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of KRS 353.651 and 353.652.

- (8) Any interested person may have the commission call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the commission by making a request therefor in writing. Upon the receipt of any request, the commission promptly shall call a hearing thereon, and, after the hearing and with all convenient speed, and in any event within thirty (30) days after the conclusion of the hearing, shall take appropriate action with regard to the subject matter thereof as it may deem appropriate. If the hearing is adjudicatory in nature, it shall be conducted in accordance with KRS Chapter 13B.
- (9) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same field or pool, or in any area that appears from geologic or other data to be underlain by a common accumulation of oil or gas, or both, and agreements between and among these owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool, or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when the agreements are approved by the commission, are hereby authorized and shall not be held or construed to violate any of the laws of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.
- (10) Nothing in this section shall be construed as giving to the commission the right or authority to supersede the authority of the department in the administration of KRS 353.060.

Section 3. KRS 353.590 is amended to read as follows:

- (1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.
- (2) Each application shall be accompanied by a specified fee as follows:
 - (a) The fee shall be three hundred dollars (\$300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.
 - (b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars (\$50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.
 - (c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended).
- (3) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor ~~in accordance with the provisions of KRS Chapter 322.~~ **When the location of the well is known to be underlain by coal-bearing stratum, the plat shall be certified accurate and correct by both a land surveyor and an engineer registered in Kentucky. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by the applicant be prepared either by a person approved by the director or an engineer registered in Kentucky.**
- (5) When any person submits to the Department of Mines and Minerals an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five hundred dollars (\$500) for a well to be drilled to a depth of five hundred (500) feet or less; one thousand dollars (\$1,000) for a well to be drilled to a depth between five hundred and one (501) feet and one thousand (1,000) feet; one thousand five hundred dollars (\$1,500) for a well to be drilled to a depth between one thousand and one (1,001) feet and one thousand five hundred (1,500) feet; two thousand dollars (\$2,000) for a well to be drilled to a depth between one thousand five hundred and one (1,501) feet and two thousand (2,000) feet; two thousand five hundred dollars (\$2,500) for a well to be drilled to a depth between two

thousand and one (2,001) feet and two thousand five hundred (2,500) feet; three thousand dollars (\$3,000) for a well to be drilled to a depth between two thousand five hundred and one (2,501) feet and three thousand (3,000) feet; three thousand five hundred dollars (\$3,500) for a well to be drilled to a depth between three thousand and one (3,001) feet and three thousand five hundred (3,500) feet; four thousand dollars (\$4,000) for a well to be drilled to a depth between three thousand five hundred and one (3,501) feet and four thousand (4,000) feet; and five thousand dollars (\$5,000) for a well to be drilled to a depth of more than four thousand (4,000) feet. The bonds shall be made in favor of the Department of Mines and Minerals, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified. An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized except pursuant to administrative regulations promulgated by the department. The commission may establish a bond in a sum greater than five thousand dollars (\$5,000) for any well to be drilled to a depth of more than four thousand (4,000) feet if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established above. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of ten thousand dollars (\$10,000), covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds, and a property bond may be executed by an operator who owns all of the surface and mineral rights of a tract proposed for drilling. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars (\$5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars (\$5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (9) of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund. The bond amounts shall be applicable only to permits issued upon and after July 13, 1990. All bonds posted for permits issued prior to July 13, 1990, shall remain in full force and effect for the duration of the permits.

- (6) A successor to the well operator shall post bond, pay a twenty-five dollar (\$25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.
- (7) If the requirements of subsection (5) of this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall be forfeited to the department.
- (8) A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director.
- (9) All sums received under subsection (5) of this section or through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.
- (10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of the hole confidential until the information is allowed to be released by the person obtaining the permit.
- (11) For the purpose of this chapter, "water supply well" shall not include:

- (a) Any well for a potable water supply for domestic use or for livestock; or
- (b) Any water well used primarily for cooling purposes in an industrial process.

Section 4. KRS 353.651 is amended to read as follows:

The following provisions of this section shall apply to any deep well:

- (1) Drilling units:
 - (a) The commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, regulate the drilling and location of wells in any pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his fair and equitable share of the recoverable oil and gas in such pool.
 - (b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, establish drilling units for each pool. The spacing of wells in proved oil and gas fields shall be governed by administrative regulations promulgated for that particular field. Wells drilled in areas not covered by special field administrative regulations shall be governed by statewide administrative regulations promulgated by the commission.
 - (c) Each well permitted to be drilled upon any drilling unit shall be drilled in accordance with the administrative regulations promulgated by the commission and in accordance with a spacing pattern fixed by the commission for the pool in which the well is located, with any exceptions that may be reasonably necessary where it is shown, in accordance with administrative regulations promulgated by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at the location unduly burdensome. Whenever an exception is granted, the commission shall take action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception.
 - (d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one (1) deep well so as to produce the reasonable maximum recoverable oil or gas in such area, unless an exception is granted in accordance with administrative regulations promulgated by the commission.
 - (e) An order establishing drilling units may be modified, altered, extended, amended, or vacated by the commission after notice and hearing as prescribed above.
- (2) Pooling of interests in drilling units:
 - (a) When two (2) or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit, and after a hearing conducted in accordance with KRS Chapter 13B, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing production therefrom. Each pooling order shall be upon terms and conditions which are just and reasonable.
 - (b) All operations, including, but not limited to, the commencement, drilling, or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of those operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from the tract by a deep well drilled thereon.
 - (c) Any pooling order under the provisions of subsection (2) of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, and abandoning the deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate therein. Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate the deep well shall be determined by competitive bids under the procedure set out in KRS 74.260.
 - (d) Upon request, any pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable

consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable.

- (e) If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate, or pay the costs of drilling and operating a deep well as provided in the commission's order, then the operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of the nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of the tracts or portions thereof, or exclusive of one-eighth (1/8) of the production attributable to all unleased tracts or portions thereof, until the market value of the nonparticipating owner's share of the production, exclusive of any royalty, overriding royalty or one-eighth (1/8) of production, equals two (2) ~~one and one fourth (1 1/4)~~ times the share of the costs payable by or charged to the interest of the nonparticipating owner.
 - (f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.
- (3) This section shall not apply to wells drilled, deepened, or reopened for the injection of water, gas, or other fluids into any subsurface formation.

The Committee Amendment No. 1 to **HB 407** is as follows:

On page 9, line 25, after "surveyor" by inserting "licensed"; and

On page 9, lines 25 and 26, by removing the brackets and strikethroughs from "in accordance with the provisions of KRS Chapter 322"; and

On page 9, lines 26 and 27, by removing the new language in its entirety; and

On page 10, lines 1 to 7, by removing the new language in its entirety.

The Committee Amendment No. 2 to **HB 407** is as follows:

On page 2, line 25, after "proposed" by inserting "or otherwise used"; and

On page 2, line 27, by removing "otherwise used".

HJR 70, A JOINT RESOLUTION directing the Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet to enter into a memorandum of understanding regarding the underground petroleum storage tank program and declaring an emergency.

WHEREAS, the Commonwealth has determined that the environmental risks from leaking underground petroleum storage tanks must be addressed by regulating the installation and operation of the tanks and to provide a financial mechanism to help pay for cleaning up tanks which have leaked; and

WHEREAS, the Public Protection and Regulation Cabinet, through its Office of Petroleum Storage Tank Environmental Assurance Fund, has the responsibility of administering the fund which is used to help pay for tank clean-ups and the Natural Resources and Environmental Protection Cabinet has the responsibility to regulate the installation and operation of underground petroleum storage tanks; and

WHEREAS, a failure of the two agencies to work more closely in making decisions on how site clean-ups should be conducted has led to persistent concerns about cost overruns, inappropriate expenses, and fraudulent claims; and

WHEREAS, better communication and coordination between the two agencies would help achieve the state purpose of managing the risks arising from the use of underground petroleum storage tanks, preserve the financial soundness of the fund, and allow the fund to spend less money to clean up more sites;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet shall immediately negotiate and enter into a memorandum of understanding (MOU) for the following purposes:

(1) To clearly define the respective responsibilities, authority, and resources assigned to each agency to achieve the purposes set out in Subchapter 60 of KRS Chapter 224 and coordinate those responsibilities, authority, and resources to preserve public safety through a more efficient and cost effective use of the fund;

(2) To set out that the technical review of site investigations and remediation plans be conducted in a way that the lowest cost approach to remediation is required;

(3) To share information relating to identifying, investigating, and cleaning up releases at underground petroleum storage tank sites; and

(4) To jointly establish criteria to prioritize the investigation and clean-up of existing sites where releases have occurred and to estimate future site remediation needs and jointly establish a schedule to achieve clean-ups at these sites in a manner to preserve public safety through the most efficient and cost effective means.

Section 2. The agencies shall submit a draft memorandum of understanding to the House Committee on Natural Resources and Environment and the Senate Committee on Agriculture and Natural Resources, if the General Assembly is in session, or to Interim Joint Committee on Agriculture and Natural Resources if the General Assembly is not in session.

Section 3. The agencies shall jointly report to the Interim Joint Committee on Agriculture and Natural Resources by July 30 immediately preceding a regular session of the General Assembly on the status of the memorandum of understanding.

Section 4. Whereas coordination between the Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet is necessary to preserve the public safety through the efficient operation of the underground petroleum storage tank program and at the lowest cost to the fund, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute No. 1 to **HJR 70** is as follows:

HJR 70, A JOINT RESOLUTION directing the Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet to enter into a memorandum of understanding regarding the underground petroleum storage tank program and declaring an emergency.

WHEREAS, the Commonwealth has determined that the environmental risks from leaking underground petroleum storage tanks must be addressed by regulating the installation, operation, and closure of the tanks, corrective action for leaks from the tanks, and by providing a financial mechanism to help pay for correction action for those leaks; and

WHEREAS, the Public Protection and Regulation Cabinet, through its Office of Petroleum Storage Tank Environmental Assurance Fund, has the responsibility of administering the fund which is used to help pay for tank corrective action and the Natural Resources and Environmental Protection Cabinet has the responsibility to regulate the operation and closure of underground petroleum storage tanks, and corrective action for leaks from those tanks; and

WHEREAS, a failure of the two agencies to work more closely in making decisions on how site clean-ups should be conducted has led to persistent concerns about cost overruns, inappropriate expenses, and fraudulent claims; and

WHEREAS, better communication and coordination between the two agencies would help achieve the state purpose of managing the risks to human health, safety, and the environment arising from the use of underground petroleum storage tanks, while preserving the financial soundness of the fund, and allowing the fund to be used cost effectively to clean up more sites;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet shall immediately negotiate and enter into a memorandum of understanding (MOU) for the following purposes:

(1) To clearly define the respective responsibilities, authority, and resources assigned to each agency to achieve the purposes set out in Subchapter 60 of KRS Chapter 224 and coordinate those responsibilities, authority, and resources to protect human health, safety, and the environment while making cost effective use of the fund;

(2) To set out that the Natural Resources and Environmental Protection Cabinet's technical review of site investigations and remediation plans be conducted in a way that requires protection of human health, safety, and the environment;

(3) To set out that the Public Protection and Regulation Cabinet's review of site investigations and remediation plans be conducted in a way that requires the most cost effective approach to protecting human health, safety, and the environment;

(4) To share information relating to identifying, investigating, and cleaning up releases at underground petroleum storage tank sites; and

(5) To jointly establish criteria to prioritize the investigation and clean-up of existing sites where releases have occurred and to estimate future site remediation needs and jointly establish a schedule to achieve clean-ups at these sites in a manner to protect human health, safety, and the environment through the most efficient and cost effective means.

Section 2. The agencies shall submit a draft memorandum of understanding to the House Committee on Natural Resources and Environment and the Senate Committee on Agriculture and Natural Resources, if the General Assembly is in session, or to Interim Joint Committee on Agriculture and Natural Resources if the General Assembly is not in session.

Section 3. The agencies shall jointly report to the Interim Joint Committee on Agriculture and Natural Resources by July 30 immediately preceding a regular session of the General Assembly on the status of the memorandum of understanding.

Section 4. Whereas coordination between the Public Protection and Regulation Cabinet and the Natural Resources and Environmental Protection Cabinet is necessary to protect human health, safety, and the environment through the efficient

operation of the underground petroleum storage tank program and at the lowest effective cost to the fund, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SCR 16, A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife Conservation.

WHEREAS, the Task Force on Funding for Wildlife Conservation was authorized by the 1996 Regular Session of the General Assembly and presented recommendations to the 1998 General Assembly; and

WHEREAS, these recommendations cover a broad range of policy, regulatory, and legislative changes; and

WHEREAS, the Task Force on Funding for Wildlife Conservation was reauthorized by the 1998 Regular Session of the General Assembly; and

WHEREAS, important issues in this area will require the oversight and continued attention of this task force;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Task Force on Funding for Wildlife Conservation is reauthorized with its original membership. The task force shall convene once in 2000 and twice in 2001 to assess the progress being made toward implementing the recommendations from its October 1997 report.

Section 2. The task force shall report its findings to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue before October 31, 2001.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Calendar

HB 346, HB 417, HB 477, HB 405, HB 429, HB 448, HB 450, HB 468, HB 497, HB 141, HB 206, HB 406, HJR 73, HB 392, HB 476, HB 491, HCR 12, and HCR 81 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow Representative Barrows to communicate with the Body. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to Former Representative Lile. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 120, HB 141, HB 206, HB 346, HB 406, HB 417, HB 448, HB 468, HB 477, HB 491, HB 497, HCR 12, HJR 73, and HCR 81** have been posted for passage in the Orders of the Day for February 10, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 405 and HB 476**

Orders of the Day

HB 339, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 339** be passed.

Representative Treesh stated that the Floor Amendments were to the Committee Substitute to **HB 339** and inquired if those Floor Amendments could also apply to the Bill without the Committee Substitute being adopted.

The Speaker ruled that the Floor Amendments were drafted to the Committee Substitute to **HB 339** and could not be attached to the Bill.

Representative Treesh moved the adoption of the Committee Substitute to **HB 339**.

Representative Anderson moved that **HB 339** be laid on the Clerk's Desk.

Representative Feeley inquired if the motion would place **HB 339** or the Committee Substitute to **HB 339** on the Clerk's Desk.

The Speaker ruled that the motion would place **HB 339**, the Committee Substitute to **HB 339**, and the Floor Amendments to the Committee Substitute to **HB 339** on the Clerk's Desk.

On the roll call the vote was: **Yeas 48, Nays 49**. (See February 9, 2000 roll call on the motion that **HB 339** be laid on the Clerk's Desk - Appendix)

The motion that **HB 339** be laid on the Clerk's Desk was defeated.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 3, HB 9, HB 49, HB 72, HB 82, HB 107, and HB 147** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. **HB 3, HB 9, HB 49, HB 72, HB 82, HB 107, and HB 147** delivered to the Senate and signed by the President. Delivered to the Governor on February 9, 2000, at (Time: 3:05 p.m.)

Orders of the Day (Continued)

Representative Treesh moved the adoption of the Committee Substitute to **HB 339**.

On the roll call the vote was: **Yeas 30, Nays 61**. (See February 9, 2000 roll call on the adoption of the Committee Substitute to **HB 339** - Appendix)

The motion that the Committee Substitute to **HB 339** be adopted was defeated.

Representative Riner moved that **HB 339** be passed.

Representative Anderson moved that **HB 339** be laid on the Clerk's Desk.

The Speaker ruled that pursuant to Rule 9, which provides that a second motion to lay on the Clerk's Desk shall not be in order on the same day, upon the same question, and at the same status without intervening business, the motion was out of order.

Representative Anderson moved that **HB 339** be laid on the Table.

On the roll call the vote was: **Yeas 30, Nays 60**. (See February 9, 2000 roll call on the motion that **HB 339** be laid on the Table - Appendix)

The motion that **HB 339** be laid on the Table was defeated.

Representative Treesh moved that the rules be suspended to consider Floor Amendment No. 3 to **HB 339**.

An objection noted, the Speaker ruled that the motion to suspend the rules to consider Floor Amendment No. 3 to **HB 339** would need 51 votes for passage.

On the roll call the vote was: **Yeas 40, Nays 52**. (See February 9, 2000 roll call on the motion to suspend the rules to consider Floor Amendment No. 3 to **HB 339** - Appendix)

The motion that the rules be suspended to consider Floor Amendment No. 3 to **HB 339** was defeated.

Representative Feeley moved that the vote by which the motion that **HB 339** be laid on the Clerk's Desk was defeated be reconsidered.

On the roll call the vote was: **Yeas 47, Nays 49**. (See February 9, 2000 roll call on the motion that the vote by which the motion that **HB 339** be laid on the Clerk's Desk was defeated be reconsidered - Appendix)

The motion that the vote by which the motion that **HB 339** be laid on the Clerk's Desk was defeated be reconsidered was

defeated.

Representative Anderson moved that the vote by which the Committee Substitute to **HB 339** was defeated be reconsidered.

Representative Treesh inquired if the motion to reconsider the vote by which the Committee Substitute to **HB 339** was defeated would take a simple majority for passage.

The Speaker ruled that it would take a simple majority.

On the roll call the vote was: **Yeas 45, Nays 50.** (See February 9, 2000 roll call on the motion that the vote by which the Committee Substitute to **HB 339** was defeated be reconsidered - Appendix)

The motion that the vote by which the Committee Substitute to **HB 339** was defeated be reconsidered was defeated.

Representative Riner moved that **HB 339** be passed.

Pursuant to House Rule 16, Representative Anderson moved to amend **HB 339** by striking out the enacting clause.

The Speaker ruled that the House Rules require that amendments to bills be written. This motion can only be made under a suspension of the rules.

Representative Anderson moved that the rules be suspended to invoke Rule 16.

On the roll call the vote was **Yeas 27, Nays 61.** (See February 9, 2000 roll call on the motion to suspend the rules to invoke Rule 16 - Appendix)

The motion to suspend the rules to invoke Rule 16 was defeated.

Pursuant to House Rule 18, Representative Anderson moved to postpone **HB 339** indefinitely.

Representative Anderson moved that the motion to invoke Rule 18 be withdrawn. Agreed.

Representative Riner moved that **HB 339** be passed.

On the roll call the vote was: **Yeas 64, Nays 28.** (See February 9, 2000 roll call on **HB 339** - Appendix)

HB 339 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 339** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved that **SB 25** be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 9, 2000 roll call on **SB 25** - Appendix.)

SB 25 was passed and the title agreed to.

Representative Branham moved that the vote by which **SB 25** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 26 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 26** be passed.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 9, 2000 roll call on **SB 26** - Appendix.)

SB 26 was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 26** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 236 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 236** be passed.

On the roll call the vote was: **Yeas 83, Nays 12.** (See February 9, 2000 roll call on **HB 236** - Appendix.)

HB 236 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 236** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 436, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 436**. Agreed.

Representative Gooch moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 436**. Agreed.

Representative Gooch moved that **HB 436**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 1.** (See February 9, 2000 roll call on **HB 436** - Appendix.)

HB 436, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 436**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 385 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 385** be returned to the Orders of the Day and that it retain its position. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 631, by Representative Richards: AN ACT relating to the Commission on Fire Protection Personnel Standards and Education.

HB 632, by Representative Damron: AN ACT relating to health insurance.

HB 633, by Representative Gray: AN ACT relating to operator's licenses.

HB 634, by Representative Cave: AN ACT relating to investments.

HB 635, by Representatives J. Arnold, Lee, and Geveden: AN ACT relating to vehicles.

HB 636, by Representatives Stein and Crenshaw: AN ACT relating to retirement.

HB 637, by Representatives Bratcher, Jenkins, Gooch, and Johns: AN ACT relating to classified employees.

HB 638, by Representative Gray: AN ACT relating to the Kentucky Employers' Mutual Insurance Authority.

HB 639, by Representative Hoffman: AN ACT relating to employees.

HB 640, by Representatives Rasche and Lee: AN ACT relating to family resource and youth service centers.

HB 641, by Representatives Crall and Gooch: AN ACT relating to retirement.

HB 642, by Representatives J. Turner, Rader, Childers, Colter, Cornett, Branham, and Stewart: AN ACT relating to surface mining.

HB 643, by Representative Moberly: AN ACT relating to hazardous waste.

HB 644, by Representatives J. Turner, Gray, Cornett, Jenkins, Bratcher, Stewart, Anderson, Ausmus, D. Butler, Branham, Ratliff, Horlander, P. Clark, Hoffman, Rader, Colter, and Yonts: AN ACT relating to workers' compensation and declaring an emergency.

HB 645, by Representative Rasche: AN ACT relating to city utilities.

HB 646, by Representative Ratliff: AN ACT relating to economic development.

HB 647, by Representatives Marzian, DeWeese, Heleringer, Johns, L. Clark, Feeley, Riggs, Burch, and Crimm: AN ACT relating to the consolidation of local governments in counties containing cities of the first class.

HR 95, by Representative Hoffman: A RESOLUTION recognizing Yuko-En On the Elkhorn: The Kentucky-Japan Friendship Garden as the official Kentucky Japanese Garden.

HR 96, by Representative Moberly: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jamie Ann Morton-Paul.

HCR 97, by Representative Anderson: A CONCURRENT RESOLUTION to create a commission to study a minimum wage for state employees in the Commonwealth.

HJR 98, by Representative Anderson: A JOINT RESOLUTION directing the Education Professional Standards Board to strengthen the certification requirements for science teachers.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 602**

Appropriations and Revenue: **HB 556, HB 583**

Banking and Insurance: **HB 598**

Education: **HB 324**

State Government: **HCR 47, HJR 61, HB 515, HB 538, HB 540, HB 544, HB 571, HB 594, HB 603, HB 605**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the rules be suspended that the when the House adjourns it does so until 2:00 p.m., February 10, 2000. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Marzian moved the adoption of the following **Legislative Citation No. 42**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Robert Bruce French The Milner Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an individual for outstanding contributions to the arts. In 1954, this remarkable educator and distinguished music historian co-founded the Louisville Academy of Music, where he continues to serve as President and Director. More than 7000 students have passed through the doors of that life-changing institution, some of whom now hold positions in professional orchestras and as music educators in public and private schools and colleges. Elected to the Louisville Male School Hall of Fame in 1996 and recently named a Distinguished Alumnus by the University of Louisville School of Music, Robert Bruce French's writings have been included in the Kentucky Encyclopedia, Our Kentucky: A Study of the Bluegrass State and in the upcoming Encyclopedia of Louisville. The members of this honorable body are delighted to join Representative Mary Lou Marzian in paying tribute to this esteemed Kentucky citizen for the remarkable impact his generous contributions have had on the nature of the music community; in expressing gratitude for his devoted support of the arts and in extending to him best wishes as he continues to serve as an inspiring example for others to follow. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 42 was adopted without objection.

Representative Sims moved the adoption of the following **Legislative Citation No. 43**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Joe Downing The National Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to a native Kentucky artist who has achieved national acclaim. Surpassing even national acclaim, Joe Downing, who now divides his time between Paris and the southern village of Menerbes, France, holds the distinction of being one of only three Americans to have work exhibited at the Louvre Museum in Paris, France. Raised on a tobacco farm in Horse Cave, Joe Downing's work as a painter, sculptor and writer continue to be inspired by his formative years in Kentucky. Though his work has been exhibited in France, Sweden, Italy, Canada, Mexico, and Germany, he continues to have exhibitions in Owensboro, Bowling Green, Louisville and Horse Cave, as well as Cincinnati, New York, Chicago, Atlanta, Charleston, West Virginia and Seattle. His remarkable work is in the permanent collections of museums around the globe. The members of this honorable body are delighted to join Representative Dottie J. Sims in paying tribute to this esteemed artist for continuing to exhibit his work on an active basis in the Commonwealth, for mentoring the work of other Kentucky artists, and for continuing to serve as an inspiring example for others to follow. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 43 was adopted without objection.

Representative Wayne moved the adoption of the following **Legislative Citation No. 44**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Fund for the Arts The Pioneer Award Recipient/1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an organization that has taken support for the arts in new and innovative directions. The Fund for the Arts, which last year celebrated fifty years of providing granting opportunities and outreach programming in the arts in Louisville and a majority of Kentucky counties, is truly a pioneer in arts funding. As the oldest united arts fund in the nation, it has led the way in recognizing the importance of the arts to the economic and cultural health of the community. Through its support of 21 performing and visual arts organizations and by providing arts programming in schools and communities, the Fund has demonstrated remarkable dedication to ensuring that access to the arts be within the reach of all populations. Currently over 400,000 school children are served annually through the funding of arts in education programs, at-risk youth are provided with transportation subsidies through the Community Partners Program, and the partnership with the YMCA Black Achievers' Program provides training to those interested in arts administration. The members of this honorable body are delighted to join Representative Jim Wayne in commending this premier united arts fund organization for blazing a trail through which the arts may march and flourish within this Commonwealth. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 44 was adopted without objection.

Representative Bather moved the adoption of the following **Legislative Citation No. 46**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Bank of Louisville The Business Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an individual or business who has demonstrated outstanding interest in and support of the arts. As one of the last locally-owned commercial banks in Louisville, the Bank of Louisville has, through the Bank of Louisville Foundation, consistently taken the lead in support of the arts in the Louisville area. Providing financial support to organizations such as the Kentucky Center for the Arts, the Louisville Orchestra, the Kentucky Opera and the Louisville Ballet, the officers of the bank have also given their time and skills to new and struggling community arts organizations through their service on many arts-related Boards of Directors and fundraising committees. The members of this honorable body are delighted to join Representative Paul Bather in paying tribute to the Bank of Louisville and in giving this remarkable financial institution the credit it is due for serving as the lifeblood of many of these vital arts organizations which in turn are the heart of the cultural health of the communities of this great Commonwealth. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 46 was adopted without objection.

Representative Cornett moved the adoption of the following **Legislative Citation No. 45**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Lee Sexton The Artist Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an individual for a lifetime of achievement in the arts. A master traditional musician hailing from Letcher County, Lee Sexton has long been recognized as one of Kentucky's greatest living treasures. Not only a virtuoso on the banjo, for which he is widely acclaimed, he is also a gifted vocalist and master on the fiddle and guitar. Having actively worked to pass his skills and

knowledge on to a younger generation, he has collaborated with Appalshop on many projects, including a video and recording entitled, Whoa Mule; is on the roster of the Kentucky Folklife Program's Tour of Kentucky Folk Music; worked with Loretta Lynn in the movie, Coal Miner's Daughter; and has performed his signature drop-thumb style of banjo playing from the porches of Kentucky to venues around the world. The members of this honorable body are delighted to join Representative Howard Cornett in paying tribute to Lee Sexton, a musician who brought into the new millennium that music which needed to be saved in order to enrich the lives of future generations. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 45 was adopted without objection.

Representative Jordan moved the adoption of the following **Legislative Citation No. 47**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Kenneth H. Clay Community Arts Award Recipient/1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an individual who has played a lead role in encouragement of the arts in the community. Currently the Interim Director of Programming at the Kentucky Center for the Arts, where he has served as the Director of Cultural Diversity since 1983, Kenneth Clay has developed and presented programs such as the Midnight Ramble, Jazz Cabaret and the annual Jazz in Central Park Festival. During his long career as a presenter in the Louisville community, he has worked with the utmost dedication to insure that recognition be given to African American and multi-cultural artists from Louisville and across the Commonwealth. As co-founder and Executive Director of Renaissance Development Corporation, which provides consultant services to state, regional and national arts organizations, he was instrumental in the development of a statewide survey of Kentucky's minority artists, resulting in a statewide conference and directory of minority artists. A 1999 graduate of Leadership Kentucky, he serves on numerous boards and committees, was a member of the National Task Force for Presenting and Touring the Performing Arts and is a recipient of Chicago's Kuumba Theater's 1993 Liberation Award for Presenting African American Artists. The members of this honorable body are delighted to join Representative Eleanor Jordan in expressing profound gratitude to Kenneth H. Clay for his most valuable contributions which have broadened and enriched the lives of all Kentuckians. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 47 was adopted without objection.

Representative Adkins moved the adoption of the following **Legislative Citation No. 48**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends The Paramount Arts Center Community Arts Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an organization that has played a lead role in encouragement of the arts in the community. The Paramount Arts Center has met its mission to "inspire, educate and entertain their community with outstanding performing arts and diverse cultural experiences while preserving a unique historic facility." Serving as a phenomenal example for community arts organizations across the Commonwealth and nation to follow, the Paramount Arts Center has consistently presented high quality entertainment; was instrumental in the formation of the Arts Council of Boyd County; is home to the Backstage Players youth theater troupe and the Ashland Youth Ballet; and is recognized for its support to traditional Appalachian music through the Highway 23 Jamboree and the Troubadour Series. Inasmuch as the presence of this remarkable organization has had a significant impact on the lives of all exposed to the power of the art it promotes, it is with great honor that the members of this distinguished body join with Representative Rocky Adkins in applauding the Paramount Arts Center, its staff, administration and volunteers, and in extending best wishes as this vital organization continues to serve both the arts and the community. Done in Frankfort, Kentucky, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 48 was adopted without objection.

Representative Simpson moved the adoption of the following **Legislative Citation No. 49**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Diane Roketenetz, Director James E. Biggs Early Childhood Education Center An Education Award Recipient/1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an individual or organization that has made significant contributions to the arts in education. Demonstrating that early exposure to the arts, in conjunction with the active involvement of families, can make a substantial difference in the lives of at-risk children, Dr. Roketenetz and the staff of the Center have proven that partnerships with established arts programs are the key to successful projects. Working with organizations such as the Kentucky Arts Council, the Carnegie Center for the Visual and Performing Arts, Cincinnati Playhouse in the Park, Morningstar Pottery, My Nose Turns Red Theatre Company, Thomas More College, and the Kentucky Institute for Arts in Education, students and parents have been successfully exposed to the arts and encouraged to explore their creativity. Through Dr. Roketenetz' leadership, the Center has received awards from the U.S. Department of Education and the National Association for the Education

of Young Children and recognition from the Partnership for Kentucky Schools, the President's Council on the Arts, Working Mother magazine and CBS News. The members of this honorable body are delighted to join Representative Arnold Simpson in honoring Dr. Diane Roketenetz for the remarkable impact her generous contributions have had on the lives of those families served by the James E. Biggs Early Childhood Education Center. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 49 was adopted without objection.

Representative Treesh moved the adoption of the following **Legislative Citation No. 50**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Daviess County Public Schools An Education Award Recipient/1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to a school district that has made significant contributions to the arts in education. Recognizing that the arts must be fully integrated into classroom curriculum in order to significantly enhance the intellectual development of students, the Daviess County Public School System has developed Project Graduation 2010, providing over 5,600 students with a range of arts education from professional artists in the areas of dance, theatre, music and visual arts. By partnering with arts organizations such as River Park Center, the Owensboro Museum of Fine Art and the Kentucky Center for the Arts, by utilizing such programs as the Young Writer's Conference Showcase and the Kentucky Arts Council Artist in Residence program, and through the generous support of corporations such as General Electric and Hallmark, students are afforded first-hand arts experiences and given the opportunity to explore their own creativity in a variety of disciplines. Teachers within this system are also provided with professional development training in order to have the tools to successfully integrate the arts into the classroom. The members of this honorable body are delighted to join Representative Mark Treesh in applauding the accomplishments of the Daviess County Public Schools and in extending best wishes for the continued success of this ground-breaking approach to enriching the lives of the youth of this Commonwealth. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 50 was adopted without objection.

Representative Crenshaw moved the adoption of the following **Legislative Citation No. 51**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Mayor Pam Miller The Government Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to an individual or agency supporting the arts through government action. A longtime and staunch supporter of the arts, Lexington's first woman mayor, Pam Miller, has continued to facilitate projects that will allow the arts to grow and thrive in Lexington. Prior to serving as mayor, she led the fight to save the fire-damaged Kentucky Theater from destruction. As mayor, she has supported the development of community spaces for arts events, working with such historic preservation projects as the renovation of the State Theater, the construction of a new facility for the Lexington Children's Theater, the conversion of the former Embury and Lowenthal clothing stores into a theater, gallery and café and the renovation of the historic Lyric Theater into a community education center. The members of this honorable body are delighted to join Representative Jesse Crenshaw in paying tribute to Mayor Pam Miller for taking a lead role in support of the arts and in extending to her best wishes as she continues to serve as an inspiring example for other elected officials to follow. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 51 was adopted without objection.

Representative Tapp moved the adoption of the following **Legislative Citation No. 52**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Byron Crawford The Media Award Recipient 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to a journalist or organization that has shown an outstanding commitment to bringing the arts to the attention of the public. This Kentucky columnist and photographer for the Louisville Courier-Journal and the Cincinnati Enquirer who also serves as the host of the Kentucky Educational Television Series, Kentucky Life, has, through his dedicated efforts, showcased the richness of Kentucky's arts and cultural communities, aiding in bringing cultural tourism initiatives to the forefront and creating a deeper appreciation of the wealth of significant art forms available in this great Commonwealth. By also introducing readers and viewers to the practicing artists of Kentucky, he has given an understanding of the person behind the art. The members of this honorable body are delighted to join Representative Gary Tapp in paying tribute to Byron Crawford for generously and warmly sharing his deep appreciation of the arts with the public. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 52 was adopted without objection.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 41**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Recipients of the 1999 Governor's Awards in the Arts given by Governor Paul E. Patton and the Kentucky Arts Council to our state's foremost advocates of the arts in the Commonwealth of Kentucky. The tireless efforts of these individuals, organizations and institutions to ensure the survival and success of the arts are this day celebrated as each is presented with the Commonwealth's highest accolades in the arts. Ardent tribute is paid to Robert Bruce French, recipient of the Milner Award; Joe Downing, recipient of the National Award; the Fund for the Arts, recipient of the Pioneer Award; Lee Sexton, recipient of the Artist Award; the Bank of Louisville, recipient of the Business Award; Kenneth H. Clay, the recipient of a Community Arts Award; the Paramount Arts Center, another recipient of a Community Arts Award; Diane Roketenetz, of the James E. Biggs Early Childhood Education Center, the recipient of an Education Award; the Daviess County Public Schools, the other well-deserving recipient of an Education Award; Lexington's Mayor Pam Miller, the recipient of the Government Award; and Byron Crawford, the recipient of the Media Award. The members of this august body are proud to join Representative Greg Stumbo in extending sincere gratitude to each of these esteemed honorees who has worked with such dedication on behalf of the arts in Kentucky and in offering sincere congratulations upon receiving this well-deserved and most prestigious recognition. Done in Frankfort, this ninth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 41 was adopted without objection.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that her vote be changed from "yea" to "nay" on **HB 10**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 209**, **HB 330**, and **HB 504**. Agreed.

Representative Stumbo moved that **HJR 86** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that **HB 575** be reassigned to the Committee on Health and Welfare. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 405**, by Representative Vincent:

Beginning on page 29 and continuing on page 30, by deleting Section 17 in its entirety and renumbering subsequent sections accordingly.

Floor Amendment No. 1 to the Committee Substitute to **HB 507**, by Representative Anderson:

On page 2, at line 22, by bracketing and striking through the words "who shall be absent from the county on any election day"; and

On page 7, at line 4, by bracketing and striking through the words "who shall be absent from the county on election day, but".

Floor Amendment No. 1 to **HB 499**, by Representative Reinhardt:

On page 1, line 19, by inserting after "coverage," the following: "which shall be at least two hundred fifty thousand dollars (\$250,000)"; and

On page 2, lines 5 and 6, by deleting "five hundred dollars (\$500)" and inserting "seven hundred fifty dollars (\$750)" in lieu thereof.

Floor Amendment No. 1 to **HB 384**, by Representative Riggs:

On page 2, line 2, after "cards," by inserting "Nothing in this paragraph shall prohibit a credit card issuer from offering lower interest rates to students on campus in connection with solicitation of credit cards.".

Floor Amendment No. 2 to **HB 450**, by Representative Marzian:

On page 1, line 9, after "pregnancy." by inserting: "The term shall not include medical services, drugs, or devices used in a manner to induce an abortion.";

On page 2, after line 12, by inserting the following:

"(6) (a) As used in this section, "religious employer" means an entity:

1. For which the inculcation of religious values is the primary purpose of the entity;
 2. That employs primarily persons who share the religious tenets of the entity;
 3. That serves primarily persons who share the religious tenets of the entity; and
 4. That receives no public funding and is not staffed by public employees.
- (b) Notwithstanding any other provision of law, an insurer shall, upon request from a religious employer, issue to the religious employer a health benefit plan that excludes coverage for prescription contraceptive services, drugs, or devices that are contrary to the religious employer's religious tenets.
- (c) A health benefit plan issued under this subsection shall provide written notice to each insured or prospective insured if prescription contraceptive services, drugs, or devices are excluded from coverage. The notice shall appear in not less than ten (10) point type in the application for the policy, in the policy, and in any sales brochure or marketing materials related to the policy.
- (d) Nothing in this section shall be construed as authorizing a health benefit plan to exclude coverage for prescription contraceptive services, drugs, or devices that are ordered by a health care provider with prescriptive authority if the prescription contraceptive services, drugs, or devices are for reasons other than contraceptive purposes, or are for prescription contraception that is necessary to preserve the life or health of a covered person."

Floor Amendment No. 2 to the Committee Substitute to **HB 405**, by Representative Vincent:

Beginning on page 29 and continuing on page 30, by deleting Section 17 in its entirety and inserting the following in lieu thereof:

"Section 17. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

- (1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.
- (2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one (1) person as the result of one (1) accident shall be ten thousand dollars (\$10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."
- (3) "Basic reparation insured" means:
 - (a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and
 - (b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.
- (4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.
- (5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.
 - (a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, licensed ambulance services, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars (\$1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a

reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

- (b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.
 - (c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.
 - (d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.
 - (e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.
- (6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include:
- (a) Conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or
 - (b) Conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.
- (7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.
- (8) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.
- (10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.
- (11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.
- (12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.
- (13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.
- (14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.
- (15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.
- (16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.
- (17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle."

Floor Amendment No. 5 to **HB 377**, by Representative Stacy:

On page 1, line 8, after "(2)" by inserting "(a)"; and

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On page 1, line 13, after "exercised." by inserting:

"(b) If a bank elects to branch statewide in Kentucky as allowed under paragraph (a) of this subsection, at least fifty percent (50%) of the deposits made at a branch bank shall be reinvested in the county in which the branch bank is located and the bank shall keep all investments and profits in the Commonwealth."; and

On page 1, line 13, before "Before" by inserting "(c)"; and

On page 1, line 18, before "The" by inserting "(d)"; and

On page 1, line 20, before "(a)" by inserting "1." and by placing brackets around and striking through "(a)"; and

On page 2, line 2, before "(b)" by inserting "2." and by placing brackets around and striking through "(b)".

Floor Amendment No. 1 to the Committee Substitute to **HB 392**, by Representative Barrows:

On page 3, line 12, delete the words "each" and "year", and delete the opening bracket and strikethroughs through the word "years". Insert the following language after the word "years", "2000-2001 and 2001-2002" and re-insert the opening bracket before "1998-1999".

Floor Amendment No. 6 to **HB 377**, by Representative Stacy:

On page 1, line 8, after "(2)" by inserting "(a)"; and

On page 1, line 13, after "exercised." by inserting:

"(b) Notwithstanding paragraph (a) of this subsection, a bank which has its principal office in a county with a population of sixteen thousand (16,000) or fewer persons may not open a branch in any county other than the county in which its principal office is located. If a bank elects to branch in Kentucky outside the county in which its principal office is located as allowed under paragraph (a) of this subsection, in no event shall a bank open a branch under this section in a county, outside of the county in which the bank's principal office is located, with a population of sixteen thousand (16,000) or fewer persons."; and

On page 1, line 13, before "Before" by inserting "(c)"; and

On page 1, line 18, before "The" by inserting "(d)"; and

On page 1, line 20, before "(a)" by inserting "1." and by placing brackets around and striking through "(a)"; and

On page 2, line 2, before "(b)" by inserting "2." and by placing brackets around and striking through "(b)".

Floor Amendment No. 7 to **HB 377**, by Representative Stacy:

On page 1, line 10 by deleting "state, the District of"; and

On page 1, line 11 by deleting "Columbia, or a territory of the United States"; and

On page 1, lines 11 and 12, by removing the brackets and strikethroughs; and

On page 1, line 12, after "located" by inserting "and within any county contiguous to the county in which its principal office is located".

Floor Amendment No. 1 to **HB 381**, by Representative Palumbo:

On page 1, line 1, through page 7, line 7, by deleting Section 1 in its entirety.

On page 7, line 8, by deleting "2" and inserting "1" after "Section", and renumbering the subsequent sections accordingly.

On page 60, line 7, through line 10, by deleting Section 26.

On page 60, line 11, by deleting "27" and inserting "25" after "Section".

On page 9, line 2, by deleting "20" and inserting "19" after "Section".

On page 10, line 13, by deleting "21" and inserting "20" after "Section".

On page 11, line 14, by deleting "8" and inserting "7" after "Section".

On page 11, line 19, by deleting "8" and inserting "7" after "Section".

On page 11, line 26, by deleting "7" and inserting "6" after "Section".

On page 12, line 20, by deleting "8" and inserting "7" after "Section".

On page 12, line 23, by deleting "8" and inserting "7" after "Section".

On page 12, line 26, by deleting "7" and inserting "6" after "Section".

On page 16, line 20, by deleting "8" and inserting "7" after "Section".
 On page 52, line 12, by deleting "20" and inserting "19" after "Section".
 On page 60, line 11, by deleting "4" and inserting "3" after "of Section".
 On page 60, line 12, by deleting "7" and inserting "6" after "Section".

Floor Amendment No. 12 to Floor Amendment No. 11 to **HB 12**, by Representative Treesh:

On page 1, by deleting subsection (1) of Section 1 in its entirety; and

On page 1, in subsection (2) of Section 1, by deleting "correct and as rapidly as practicable to", and by renumbering subsection "(2)" as subsection "(1)" in Section 1.

Floor Amendment No. 8 to **HB 377**, by Representative Stacy:

On page 1, line 8, after "(2)" by inserting "(a)"; and

On page 1, line 13, after "exercised." by inserting:

"(b) If a bank elects to branch statewide in Kentucky as allowed under paragraph (a) of this subsection, at least eighty percent (80%) of the deposits made at a branch bank shall be reinvested in the county in which the branch bank is located."; and

On page 1, line 13, before "Before" by inserting "(c)"; and

On page 1, line 18, before "The" by inserting "(d)"; and

On page 1, line 20, before "(a)" by inserting "1" and by placing brackets around and striking through "(a)"; and

On page 2, line 2, before "(b)" by inserting "2" and by placing brackets around and striking through "(b)".

Floor Amendment No. 9 to **HB 377**, by Representative Stacy:

On page 1, line 8, after "(2)" by inserting "(a)"; and

On page 1, line 13, after "exercised." by inserting:

"(b) If a bank elects to branch statewide in Kentucky as allowed under paragraph (a) of this subsection, the bank shall make available to the public a statement of all sources of income, including amounts attributable to investments and service fees. The disclosure required by this paragraph shall disclose income for the latest completed quarter of operations of the bank's fiscal year and shall include the total amount of funds received from service charges and the percent of total bank income represented by the total amount of funds received from service charges. The disclosure shall state the funds received from each separate service charge and list each service charge separately, including charges for use of automated teller machines, overdraft fees, stop payment on checks fees, safe-deposit box fees, checking account fees, check safekeeping fees, fees for assisted transactions, check cashing fees, traveler's checks fees, returned check fees, cashier's check fees, and money order fees."; and

On page 1, line 13, before "Before" by inserting "(c)"; and

On page 1, line 18, before "The" by inserting "(d)"; and

On page 1, line 20, before "(a)" by inserting "1" and by placing brackets around and striking through "(a)"; and

On page 2, line 2, before "(b)" by inserting "2" and by placing brackets around and striking through "(b)".

House Floor Amendment No. 2 to **SB 40**, by Representative Cave:

On page 2, line 20, by deleting "has the meaning it is given in KRS 304.17A-005" and inserting in lieu thereof "is an insurer, nonprofit hospital, medical-surgical, dental health service corporation, health maintenance organization, prepaid dental plan organization, provider-sponsored integrated health delivery network or other sources of benefits"; and

On page 4, line 25, after "that" by inserting ":

(a) The applicant is not competent, trustworthy, reliable, and of good reputation;

(b) The applicant is not financially responsible; or

(c)"; and

On page 6, line 10, by deleting "insolvent" and inserting in lieu thereof "financially impaired" and by deleting "or"; and

On page 6, line 18, after the first use of the word "administrator" by inserting a", impose a civil penalty in lieu thereof, or

both,"

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 117: Representative R. Adams
HB 123: Representatives Baugh, Crenshaw
HB 220: Representative Westrom
HB 324: Representatives Jenkins, Johns, Stumbo
HB 485: Representative Cornett
HB 492: Representative Westrom
HB 518: Representatives Ausmus, Colter
HB 538: Representative Haydon
HB 563: Representative Upchurch
HB 571: Representative Riggs
HB 588: Representatives Adkins, Anderson, L. Belcher, P. Clark, Coleman, Colter, Fischer, Heleringer, Ratliff, Stacy, Simpson, Wayne, Webb, Westrom
HB 606: Representatives Bratcher, Wayne
HB 618: Representative Cave
HB 637: Representative Colter

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 10, 2000.

The motion that the House adjourn until 2:00 p.m., February 10, 2000, was adopted by voice vote.

FEBRUARY 10, 2000
TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Roger Newell, Park View Methodist Church of Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 9, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 36, SB 47, SB 80, SB 86, SB 105, SB 107, SB 114, SB 123, SB 128, SB 139, HB 98, HB 129, HB 160, HB 164, HB 214, HB 215, HB 232, HB 242, HB 250, HB 266, HB 312, and HB 357.** (Time: 2:15 p.m.)

Introduction of Bills and Resolutions

HB 648, by Representative Crimm: AN ACT relating to concealed deadly weapons.

HB 649, by Representative Riggs: AN ACT relating to loans.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 629**

Banking and Insurance: **HB 619, HB 621, HB 628, HB 632, HB 634, HB 638, HB 643**

Economic Development and Tourism: **HB 646**

Education: **HB 622, HB 623, HB 631, HB 637, HB 640, HB 641, HJR 98, SB 77**

Health and Welfare: **HB 630**

Judiciary: **HB 626, HB 627, SB 32**

Labor and Industry: **HB 620, HB 644**

Licensing and Occupations: **HB 625**

Local Government: **HB 636, HB 645**

Natural Resources and Environment: **HB 642**

State Government: **HB 624, HB 635, HB 639, HB 647, HCR 97**

Transportation: **HB 633, SB 97**

House Floor: **HR 95, HR 96**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 138, HB 161, HB 347, HB 178, HCR 82, HCR 88**

Transportation: **HB 508, HB 542, HB 100, HJR 78, SJR 17**

State Government: **HB 610, HB 647, HB 561**

Health and Welfare: **HB 592, HJR 90, HB 582, HB 575**

The following Bill has been withdrawn from Committee consideration:

Education: **HB 332**

Report of Committees

The Committee on Economic Development reported **HB 209, HB 287**, with Committee Amendment attached thereto, **HB 330**, with Committee Amendments attached thereto, and **HB 588** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-040 is amended to read as follows:

- (1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available, and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate that meets the criteria of this subsection, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county.
- (2) *A company shall be eligible for the incentives offered in KRS 154.22-010 to 154.22-070 if:*
 - (a) *It is located within a regional industrial park that receives a grant from the Local Government Economic Development Program, established in KRS 42.4588; and*
 - (b) *The regional industrial park in which the company is located benefits two (2) or more counties with accounts in the local government economic development fund as provided in KRS 42.4588(4); and*
 - (c) *The combined average unemployment rate of the partnering counties benefiting by the regional industrial park exceeds the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, based on the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development.*

If the authority determines that the combined average unemployment rate of the partnering counties no longer exceeds the statewide unemployment rate as specified in paragraph (c) of this subsection, then the authority shall not finance any facilities in that regional industrial park and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements are entered into by all parties prior to July 1 of the year following the calendar year in which the authority made its determination of ineligibility.
- (3) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- ~~(4)~~~~(3)~~ The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon

the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

- (a) Rehabilitates a manufacturing facility:
 - 1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
 - 2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces a manufacturing facility existing in the Commonwealth:
 - 1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 - 2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
- (c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

~~(5)(4)~~ With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 2. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

- (1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:
 - (a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.
 - (b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.
 - (c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.
 - (d)
 - 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of

the financing agreement.

- a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus
 - b. The aggregate assessment withheld by the approved company in each year.
2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.
- (e)
1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.
 2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.
 3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.
 4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.
- (f) The financing agreement shall provide in substance that:
1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and
 2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and
 - a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;
 - b. Pursue any remedy provided under the financing agreement or other such documents;
 - c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;
 - d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and
 - e. Pursue any other remedy at law to which it appears entitled.
 3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.
- (2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

- (a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:
 - 1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or
 - 2. Fifteen (15) years from the activation date.
 - 3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.
- (b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.
- (c)
 - 1. The approved company may be permitted the following during the term of the financing agreement:
 - a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus
 - b. The aggregate assessment withheld by the approved company in each year.
 - 2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.
- (d)
 - 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.
 - 2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.
 - 3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.
 - 4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.
- (e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

- (f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.
- (g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:
 - 1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;
 - 2. Pursue any remedy provided under the financing agreement, including termination thereof; and
 - 3. Pursue any other remedy at law to which it appears entitled.
- (3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.
- (4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040~~(4)~~~~(3)~~ by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040~~(4)~~~~(3)~~ within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

HB 287, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.33-510 is amended to read as follows:

As used in KRS 154.33-501 to 154.33-585, unless the context otherwise requires:

- (1) "Area" or "region" means the geographical area represented by the East Kentucky Corporation, including that part of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended, except that the counties of Clark, ~~Estill~~, Garrard, Lincoln, **and** Madison ~~and Powell~~ shall not be included as part of the "area" or "region," as defined herein, for the purposes of KRS 154.33-501 to 154.33-585;
- (2) "Board" means the board of directors of the corporation;
- (3) "Bonds" or "notes" means revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, notes or other obligations issued by the corporation under the authority of KRS 154.33-501 to 154.33-585;
- (4) "Committee" means the executive committee of the board of directors of the corporation, possessing all powers, duties, and responsibilities as provided in KRS 154.33-540, and as may be otherwise provided by the board;
- (5) "Commonwealth" means the Commonwealth of Kentucky;
- (6) "Corporation" means the East Kentucky Corporation;
- (7) "Executive director" means the chief administrator of the corporation having responsibility for its day-to-day operations, and possessing all duties, responsibilities, and authorities as specified by the board or executive committee;
- (8) "Fund" means the East Kentucky economic development fund as provided by KRS 154.33-550;
- (9) "Local governing body" means the fiscal court of any county within the area or the legislative body of any city represented on the board of the corporation; and
- (10) "Project" means any economic or job development activity or program or facility or undertaking located within the area which is planned, developed, implemented, operated, financed, or otherwise assisted by the corporation pursuant to KRS 154.33-501 to 154.33-585.

The Committee Amendment No. 1 to **HB 287** is as follows:

On page 2, after line 3, insert the following:

"Section 2. KRS 154.85-010 is amended to read as follows:

As used in KRS 154.85-001 to 154.85-085, unless the context otherwise requires:

- (1) "Area" or "region" means the geographical area represented by the West Kentucky Corporation, including all the following counties: Allen, Ballard, Barren, Breckinridge, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Grayson, Hancock, Hardin, Hart, Henderson, Hickman, Hopkins, Larue, Livingston, Logan, Lyon, Marion, Marshall, McCracken, McLean, Meade, Metcalfe, Monroe, Muhlenberg, Nelson, Ohio, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Webster;
- (2) "Board" means the board of directors of the corporation;
- (3) "Bonds" or "notes" means revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, bond anticipation notes, or other obligations issued by the corporation under the authority of KRS 154.85-035 and 154.85-045;
- (4) "Committee" means the executive committee of the board of directors of the corporation, possessing all powers, duties, and responsibilities as provided in KRS 154.85-035 and 154.85-040, and as may be otherwise provided by the board;
- (5) "Commonwealth" means the Commonwealth of Kentucky;
- (6) "Corporation" means the West Kentucky Corporation;
- (7) "Executive officer" or "president" means the chief administrator of the corporation having responsibility for its day-to-day operations, and possessing all duties, responsibilities, and authorities as specified by the board or executive committee;
- (8) "Fund" means the West Kentucky economic development fund as provided by KRS 154.85-050;
- (9) "Local governing body" means the fiscal court of any county within the area or the legislative body of any city represented on the board of the corporation; and
- (10) "Project" means any economic or job development activity or program or facility or undertaking located within the area which is planned, developed, implemented, operated, financed, or otherwise assisted by the corporation pursuant to KRS 154.85-001 to 154.85-085."

HB 330, AN ACT relating to economic development

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.12-207 is amended to read as follows:

- (1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars (\$200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.
- (2) To qualify for a grant-in-aid, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry.
- (3) Approval of the grant-in-aid application by the board, shall be based upon the following criteria:
 - (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
 - (b) Participants in the program must be limited to those defined in Section 2 of this Act~~citizens of the Commonwealth~~;
 - (c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;
 - (d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;
 - (e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance and financial support which, together, with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid; and
 - (f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation.

Section 2. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

- (1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;
- (2) "Approved costs" means:
 - (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
 - (b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;
 - (c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
 - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
 - (e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
 - (f) All other costs of a nature comparable to those described in this subsection;
- (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent institution within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level;
- (6) "Employee" means any person:
 - (a) Who is currently a permanent full-time employee of the qualified company; and
 - (b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company; and
 - (c) Who is a Kentucky resident, as that term is defined in KRS 141.010;

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;
- (7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;
- (8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;
- (9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;
- (10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment including, but not limited to, technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and
- (11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as

provided in KRS 154.12-2086(1).

The Committee Amendment No. 1 to **HB 330** is as follows:

On page 5, after line 8, to insert the following new section:

"Section 3. Whereas it is important that participants in the Bluegrass State Skills Corporation be Kentucky residents as the term is defined in the state income tax code, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

The Committee Amendment No. 2 Title to **HB 330** is as follows:

To amend the title to read as follows: "AN ACT relating to economic development and declaring an emergency."

HB 588, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).
- (2) It shall be the purpose of the Commission on Small Business Advocacy to:
 - (a) Address matters of small business as it relates to government affairs;
 - (b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;
 - (c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;
 - (d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;
 - (e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and
 - (f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.
- (3) The Commission on Small Business Advocacy shall consist of twenty-five (25) members:
 - (a) The Governor, or the Governor's designee;
 - (b) The secretaries of the following cabinets, or their designees:
 1. Economic Development;
 2. Natural Resources and Environmental Protection;
 3. Revenue; and
 4. Transportation;
 - (c) The state director of the Small Business Development Centers in Kentucky;
 - (d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:
 1. Associated Industries of Kentucky;
 2. National Federation of Independent Business;
 3. Kentucky Chamber of Commerce;
 4. Kentucky Federation of Business and Professional Women's Club, Inc.
 5. Kentucky Retail Federation;
 6. Professional Women's Forum;
 7. Kentuckiana Minority Supplier Development Council;
 8. Greater Lexington Chamber of Commerce
 9. Lexington chapter of the National Association of Women Business Owners;
 10. Greater Louisville, Inc.;

11. Louisville chapter of the National Association of Women Business Owners;
 12. Northern Kentucky Chamber of Commerce, Inc.;
 13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners; and
 14. Bowling Green chapter of the National Association of Women Business Owners;
 - (e) One (1) representative from small business from each of the following areas, appointed by the Governor :
 1. A city of the third class;
 2. A city of the fourth class; and
 3. A city of the fifth class; and
 - (f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:
 1. The Center for Rural Development; and
 2. Community Ventures Corporation.
 - (4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that six (6) appointments shall expire at two (2) years, six (6) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.
 - (5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.
 - (6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.
 - (7) A quorum shall be a majority of the membership of the commission.
 - (8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.
 - (9) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the commission and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.
 - (10) The Commission on Small Business Advocacy shall be an independent agency attached to the Office of the Governor.
- SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:
- (1) The duties of the Commission on Small Business Advocacy shall include, but not be limited to:
 - (a) Coordinate and promote the awareness of the Federal Small Business Regulatory Enforcement Fairness Act of 1996, and its subsequent amendments within the small business community of the Commonwealth;
 - (b) Develop a process by which the small business community is made aware of state legislation and administrative regulations affecting it, both prior to its enactment and during its implementation;
 - (c) Advocate for the small business sectors when state legislation and administrative regulations are overly burdensome, costly, or harmful to the success and growth of the sector; and
 - (d) Collect information and research those public policies and government practices which are helpful or detrimental to the success and growth of the small business community.
 - (2) By September 1 of each year, the commission shall submit a report to the Governor and the Interim Joint Committee on Economic Development and Tourism detailing its work in the prior fiscal year, including, but not limited to the following:
 - (a) Activities and achievements of the commission in accomplishing its purposes and duties;
 - (b) Findings of the commission related to its collection of information and research on public policies and government practices affecting small businesses, including specific legislation and administrative regulations that are helpful or detrimental to the success of small businesses; and
 - (c) Specific recommendations of ways state government could better promote the economic development efforts of small businesses in the Commonwealth.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination

of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.

- (n) Kentucky African-American Heritage Commission.
- (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
- 7. Cabinet for Families and Children:
 - (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.

- (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.
 - (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.

- (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) Governor's Council on Vocational Education.
 - (h) The State Board for Proprietary Education.
 - (i) The Foundation for Adult Education.
 - (j) The Kentucky Job Training Coordinating Council.
 - (k) Office of General Counsel.
 - (l) Office of Communication Services.
 - (m) Office of Development and Industry Relations.
 - (n) Office of Workforce Analysis and Research.
 - (o) Office for Administrative Services.
 - (p) Office for Policy and Budget.
 - (q) Office of Personnel Services.
 - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.

- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.
- 9. Commission on Small Business Advocacy.**

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Council on Postsecondary Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Kentucky Commission on Human Rights;
- (5) Kentucky Commission on Women;
- (6) Kentucky Commission on Military Affairs;
- (7) Coal Marketing and Export Council;
- (8) Governor's Office of Child Abuse and Domestic Violence Services;
- (9) Office of the Chief Information Officer; ~~and~~
- (10) Office of Coal Marketing and Export; **and**
- (11) Commission on Small Business Advocacy.**

The Committee Amendment No. 1 Title to **HB 588** is as follows:

To amend the title to read as follows: "AN ACT relating to small business."

The Committee on Local Government reported **HB 62, HB 244**, with Committee Substitute attached thereto, **HB 252, HB 275, HB 314, HB 334**, with Committee Substitute attached thereto, **HB 359**, with Committee Amendment attached thereto, **HB 360**, with Committee Substitute attached thereto, **HB 397, HB 431, and HB 438**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 62, AN ACT changing the classification of the City of Pioneer Village, in Bullitt County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Pioneer Village, in Bullitt County, is such as to justify its being classified as a city of the fourth class;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Pioneer Village, in Bullitt County, is transferred from the fifth to the fourth class of cities.

HB 244, AN ACT relating to a building inspectors training program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board may establish a building inspectors training program through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The program shall provide training to encourage local governments to establish and improve building code enforcement programs and to encourage all building inspectors to upgrade their skills. The department may fund the program by increasing the plan review fees charged by the department to provide one hundred fifty thousand dollars (\$150,000) per fiscal year.

The Committee Substitute No. 1 to **HB 244** is as follows:

HB 244, AN ACT relating to a building inspectors training program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) The Board of Housing, Buildings and Construction may establish a building inspectors training program through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The program shall provide training to encourage local governments to establish and improve building code enforcement programs and to encourage all building inspectors to upgrade their skills.
- (2) If the board chooses to establish the program authorized in subsection (1) of this section, there shall be created in the Department of Housing, Buildings and Construction, under the Board of Housing, Buildings and Construction, a trust and agency fund to be known as the "Building Inspectors' Financial Incentive Training Program Fund". The fund shall be funded annually with a maximum of one hundred fifty thousand dollars (\$150,000) by increasing the department's plan review fees collected for each occupancy classification under KRS 198B.060 by one-half cent (\$.005) per calculated square foot. Any funds collected annually in excess of one hundred fifty thousand dollars (\$150,000) shall be used solely for the administration of the department's building inspection program. Any unused fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be available only for the purposes specified in this section, and shall be included in the budget recommendation for the executive branch and in the draft budget bill for the executive branch submitted to each regular session of the General Assembly for the biennium period beginning July 1, 2002, and for each biennium thereafter. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

HB 252, AN ACT changing the classification of the City of Hebron Estates in Bullitt County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Hebron Estates, in Bullitt County, is such as to justify its being classified as a city of the fifth class;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Hebron Estates, in Bullitt County, is transferred from the sixth to the fifth class of cities.

HB 275, AN ACT relating to interlocal agreements between cities, counties, charter counties, and urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.260 is amended to read as follows:

- (1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.
- (2) Except as provided in subsections (3) and (4) of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state, except for interlocal agreements between cities, counties, charter counties, and urban-county governments which shall be submitted to the Department for Local Government. The Attorney General or the Department for Local Government shall approve any agreement submitted to ~~them~~^{him} under this subsection unless they find~~he finds~~ that it does not meet the conditions set forth in KRS 65.210 to 65.300. ~~If in the event that~~ the agreement does not meet these conditions, the Attorney General or

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the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

- (3) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.
- (4) Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

HB 314, AN ACT relating to motor vehicle emission inspection programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-710 is amended to read as follows:

As used in KRS 224.20-710 to 224.20-765, unless the context clearly indicates otherwise:

- (1) "Compliance certificate" means an official emission inspection certificate issued by the cabinet or a county, air pollution control district, contractor, or fleet operator authorized by the cabinet, indicating that a vehicle has been tested in accordance with KRS 224.20-710 to 224.20-765 and complies with all applicable emission standards;
- (2) "Independent contractor" means any person, business firm, partnership, or corporation with whom the cabinet or a fiscal court may negotiate an agreement providing for construction, equipment, maintenance, personnel, management, and operation of an official emission inspection station;
- (3) "Control system" means equipment designed for installation or installed on a motor vehicle for the purpose of reducing the air contaminants emitted from the vehicle or a system or engine adjustment or modification which causes a reduction of air contaminants emitted from the vehicle;
- (4) "Exemption certificate" means an official exemption certificate issued by the cabinet or a county, contractor, or fleet operator authorized by the cabinet, indicating that a vehicle is exempt from certain requirements of KRS 224.20-710 to 224.20-765;
- (5) "Inspection station" means an official vehicle emission inspection facility whether placed in a permanent structure or in a mobile unit for conveyance among various locations within this Commonwealth, to conduct emission inspections of vehicles required to be inspected pursuant to KRS 224.20-710 to 224.20-765;
- (6) "Reciprocal certificate" means an official certificate issued by the cabinet or a county, air pollution control district, contractor, or fleet operator authorized by the cabinet, honoring an out-of-state certificate that indicates the vehicle was tested and either successfully passed the inspection or was exempt from the inspection in a state that is required to conduct vehicle emission testing by the Federal Environmental Protection Agency. A reciprocal certificate shall be valid for one (1) year from the date it is issued.
- (7) "Vehicle" means any automobile or truck registered in this Commonwealth having a combined manufacturer's weight of vehicle and maximum load to be carried of up to eighteen thousand (18,000) pounds, which is equivalent to eight thousand one hundred eighty-two (8,182) kilograms, or less and used upon the public highways of the Commonwealth for the purpose of transporting persons or property; and
- ~~(8)~~~~(7)~~ "Vehicle emission control program" means a program developed by the cabinet pursuant to KRS 224.20-710 to 224.20-765 which provides for the control of vehicle emissions of any air contaminant.

SECTION 2. A NEW SECTION OF KRS 224.20-710 TO 224.20-765 IS CREATED TO READ AS FOLLOWS:

- (1) A person registering a motor vehicle in a county required to conduct vehicle emission testing under this chapter, who is transferring the registration of the vehicle from another state that is also required to conduct vehicle emission testing by the Federal Environmental Protection Agency, shall be issued a reciprocal certificate upon presenting to the cabinet or a county, air pollution control district, contractor, or fleet operator authorized by the cabinet, a valid certificate issued by the other state indicating the vehicle was tested and either successfully passed the inspection or was exempt from the inspection.
- (2) An out-of-state certificate shall be deemed to be valid in the Commonwealth for a period not to exceed one (1) year from the date it was issued and shall be presented to the cabinet or a county, air pollution control district, contractor, or fleet operator authorized by the cabinet, to conduct vehicle emission testing under this chapter.
- (3) A person issued a reciprocal certificate shall not be required to have the vehicle inspected under the provisions of this chapter until the reciprocal certificate expires.

Section 3. KRS 224.20-755 is amended to read as follows:

- (1) A county fiscal court may apply to the cabinet for authority to operate a vehicle emission control program. The cabinet may delegate authority when it has found that the applicant:

- (a) Has obtained approved machinery, tools, and equipment approved by the cabinet and adequate to conduct the required emission inspections;
 - (b) Has provided for a sufficient number of facilities to ensure minimum waiting time for vehicles to be inspected;
 - (c) Employs properly trained personnel with whom to perform the necessary inspections;
 - (d) Has adopted minimum emission standards for vehicles at least as stringent as those adopted by the cabinet; and
 - (e) Agrees to provide information prescribed by the cabinet concerning the implementation, administration, and operation of the vehicle emission control program.
- (2) **Any county that has received authority to operate a vehicle emission control program shall honor and issue reciprocal certificates as required under Section 2 of this Act. The provisions of this subsection shall supersede any existing local ordinance involving the inspection of motor vehicles under a vehicle emission control program administered by a county. All counties, cities, special districts, and other units of local government shall be prohibited from enacting an ordinance contrary to the provisions of this subsection.**
- (3) Any county which has received authority to operate a vehicle emission control program may charge an inspection fee. There shall be established an emission inspection account in the county. Unless an independent contractor is authorized pursuant to KRS 224.20-740 to collect inspection fees, the county clerk shall collect the fee at the time of registration renewal in the manner provided for cabinet programs. The inspection fees collected by the county clerk shall be immediately transferred to the county emission inspection account, except for a sum of no more than twenty-five cents (\$0.25) per vehicle which the county clerk may retain.
- ~~(4)~~~~(3)~~ A county which has received authority to operate a vehicle emission control program shall transmit to the cabinet's vehicle emission control fund two percent (2%) of the funds received from inspection fees or from the independent contractor authorized pursuant to KRS 224.20-740.
- ~~(5)~~~~(4)~~ The county may use the county's emission inspection fund to acquire any special equipment, tools, employees, material, or facilities needed to adequately administer, investigate, or enforce the provisions of KRS 224.20-710 to 224.20-765.
- ~~(6)~~~~(5)~~ The county may enter into a contract with the cabinet and receive state funds charged to the cabinet's vehicle emission control fund to start a vehicle emission control program.
- ~~(7)~~~~(6)~~ A county applying for delegation pursuant to this section may enter into a contract with one (1) or more independent contractors subject to the provisions of KRS 224.20-740 to provide for construction, equipment, establishment, maintenance and operation of inspection stations for the purpose of obtaining delegation pursuant to KRS 224.20-710 to 224.20-765.
- ~~(8)~~~~(7)~~ If the cabinet determines, after a hearing with notice, that a delegated vehicle emission control program is not being administered in accordance with KRS 224.20-710 to 224.20-765, the delegation of authority may be revoked by order of the cabinet and all unexpended money, equipment and facilities acquired by the county with funds granted by the cabinet shall be transferred to the cabinet.
- Section 4. KRS 224.20-760 is amended to read as follows:
- (1) **Except as provided in subsection (2) of this section,** the provisions of KRS 224.20-710 to 224.20-765 shall not detract from the authority provided air pollution control districts in KRS Chapters 77 and 224.
 - (2) **Any air pollution control district that has received authority to operate a vehicle emission control program shall honor and issue reciprocal certificates as required under Section 2 of this Act. The provisions of this subsection shall supersede any existing local ordinance involving the inspection of motor vehicles under a vehicle emission control program administered by an air pollution control district. All counties, cities, special districts, and other units of local government shall be prohibited from enacting an ordinance contrary to the provisions of this subsection.**
 - (3) The authority in KRS 224.20-720 is provided to air pollution control districts provided:
 - (a) The air pollution control district may function and exercise its powers pursuant to resolution or ordinance as provided in **this section** and KRS Chapter 77; and
 - (b) The air pollution control district has been granted concurrent jurisdiction by the cabinet pursuant to KRS 224.20-130.
 - ~~(4)~~~~(3)~~ Actions taken by an air pollution control district for violations of KRS 224.20-710 to 224.20-765 shall be enforced in accordance with the provisions of KRS 224.20-130(5).

Section 5. All counties and air pollution control districts that have authority to operate a vehicle emission control program under the provisions of KRS 224.20-710 to 224.20-765 shall be required to begin issuing reciprocal certificates upon the effective date of this Act. Any county, city, special district, or other unit of local government, including an air pollution control district, that currently has an ordinance requiring the inspection of motor vehicles under a locally administered vehicle emission control program, shall amend the ordinance within thirty (30) days of the effective date of this Act to require the issuance of reciprocal certificates. Any local government that fails to amend an ordinance to issue reciprocal certificates in violation of this section shall have the local government's authority to administer a vehicle emission control program immediately suspended until

the offending ordinance is amended.

HB 334, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;
- (2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;
- (3) "Board" means the board of adjustment unless the context indicates otherwise;
- (4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;
- (5) "Commission" means planning commission;
- (6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;
- (7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:
 - (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
 - (b) A statement of the specific conditions which must be met in order for the use to be permitted;
- (8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;
- (9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;
- (10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;
- (11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;
- (12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;
- (13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;
- (14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;
- (15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;
- (16) "Plat" means the map of a subdivision;
- (17) "Political subdivision" means any city or county;
- (18) "Several" means two (2) or more;
- (19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;
- (20) "Street" means any vehicular way;
- (21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or

attachment to something having a permanent location in or on the ground, including buildings and signs;

- (22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;
- (23) "Unit" means planning unit;~~and~~
- (24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247;
- (25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550 that meets the criteria enumerated in paragraphs (a) to (h) of this subsection. The manufactured home:
 - (a) Is manufactured after January 1, 2000;
 - (b) Is affixed to a permanent foundation and is connected to the appropriate facilities;
 - (c) Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height except for where established lots in local jurisdictions or subdivisions permit widths of less than twenty (20) feet at the smallest width measurement;
 - (d) Has a length of at least forty (40) feet at its smallest length measurement;
 - (e) Has a minimum total living area of nine hundred (900) square feet;
 - (f) Has a minimum roof pitch of a three (3) foot rise to a twelve (12) foot run;
 - (g) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and
 - (h) Is not located in a manufactured home land-lease community or park; and
- (26) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation to which a manufactured home may be affixed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

- (1) The Commonwealth of Kentucky recognizes that the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code, is the construction standard for manufactured housing and shall not be preempted or superseded.
- (2) The provisions of this section and Section 3 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.
- (3) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that discriminate against manufactured homes within those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (25) of Section 1 of this Act, solely because the homes are either built in a factory or are not built on-site.
- (4) Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (3) of this section.

Section 3. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

- (1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:
 - (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;
 - (b) The size, width, height, bulk, location of structures, buildings and signs;
 - (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

- (d) Intensity of use and density of population floor area to ground area ratios, or other means;
 - (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;
 - (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and
 - (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;
- (2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;
- (3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;
- (4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:
- (a) Setback lines may be required for the protection of existing and proposed streets and highways;
 - (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and
 - (c) Manufactured homes, mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;
- (5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;
- (6) In any regulation adopted pursuant to subsection (5) of this section:
- (a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and
 - (b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;
- (7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);
- (8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:
- (a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;
 - (b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and
 - (c) Impose screening and buffering restrictions upon the subject property;
- The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced; and
- (9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

The Committee Substitute No. 1 to HB 334 is as follows:

HB 334, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to

administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

- (2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;
- (3) "Board" means the board of adjustment unless the context indicates otherwise;
- (4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;
- (5) "Commission" means planning commission;
- (6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;
- (7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:
 - (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
 - (b) A statement of the specific conditions which must be met in order for the use to be permitted;
- (8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;
- (9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;
- (10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;
- (11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;
- (12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;
- (13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;
- (14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;
- (15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;
- (16) "Plat" means the map of a subdivision;
- (17) "Political subdivision" means any city or county;
- (18) "Several" means two (2) or more;
- (19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;
- (20) "Street" means any vehicular way;
- (21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;
- (22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the

same land shall be deemed a subdivision within the meaning of this section;

- (23) "Unit" means planning unit; ~~and~~
- (24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247;
- (25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550;
- (26) "Qualified manufactured home" means a manufactured home that meets all the criteria in paragraphs (a) to (g) of this subsection. The qualified manufactured home:
 - (a) Is manufactured after January 1, 2000;
 - (b) Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
 - (c) Has a width of at least twenty-two (22) feet at its smallest width measurement, or is two (2) stories in height, and is oriented on the lot or parcel so that its main entrance door faces the street;
 - (d) Has a minimum total living area of nine hundred (900) square feet;
 - (e) Has a minimum roof pitch of a three (3) foot rise to a twelve (12) foot run;
 - (f) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and
 - (g) Is not located in a manufactured home park; and
- (27) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation, excluding temporary blocks, to which a manufactured home may be affixed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

- (1) The Commonwealth of Kentucky recognizes that the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code, is the construction standard for manufactured housing and shall not be preempted or superseded.
- (2) The provisions of this section and Section 3 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.
- (3) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude qualified manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that discriminate against qualified manufactured homes within those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (27) of Section 1 of this Act, solely because the qualified manufactured homes are either built in a factory or are not built on-site.
- (4) Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (3) of this section.

Section 3. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

- (1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:
 - (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;
 - (b) The size, width, height, bulk, location of structures, buildings and signs;
 - (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;
 - (d) Intensity of use and density of population floor area to ground area ratios, or other means;
 - (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;
 - (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and
 - (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and

transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

- (2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;
- (3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;
- (4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:
 - (a) Setback lines may be required for the protection of existing and proposed streets and highways;
 - (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and
 - (c) Manufactured homes, mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;
- (5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;
- (6) In any regulation adopted pursuant to subsection (5) of this section:
 - (a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and
 - (b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;
- (7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);
- (8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:
 - (a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;
 - (b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and
 - (c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced; and
- (9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

HB 359, AN ACT relating to boards of ethics of local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.003 is amended to read as follows:

- (1) The governing body of each city and county, including urban-counties and charter counties, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city or county, and to appointed officials and employees of the city or county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city or county to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the city and county elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.
- (2) Any city or county may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities or counties, ~~in accordance with the provisions of the Interlocal Cooperation Act, KRS 65.210 to 65.300,~~ for joint adoption of a code of ethics which shall apply to all elected officials of the cities or counties, and to appointed officials

and employees as specified by each of the cities or counties which enters into the agreement. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:

- (a) The provision of administrative services relating to the implementation of a code of ethics;
- (b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and
- (c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city and county elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

- (3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include, but not be limited to, provisions which set forth:
 - (a) Standards of conduct for elected and appointed officials and employees;
 - (b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city and county elective offices specified in subsection (1) of this section, elected officials of each city and county government, and other officials or employees of the city or county government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics, provided that nonpaid members of jointly created agencies may be exempted from disclosure of financial details;
 - (c) A policy on the employment of members of the families of officials or employees of the city or county government, as specified in the code of ethics;
 - (d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, including issuance of subpoenas as necessary, and imposition of penalties provided in the code of ethics.
- (4) The code of ethics ordinance adopted by a city or county may be amended but shall not be repealed.
- (5)
 - (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city and county shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The department shall maintain the ordinances as public records and shall maintain a list of city and county governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.
 - (b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city or county shall deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted.
 - (c) For ordinances adopting or amending a code of ethics under this section, cities of the first class shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.
- (6) If a city or county government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city or county government. Those agencies shall suspend delivery of all services or payments to the city or county government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city or county government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city or county government.

The Committee Amendment No. 1 to **HB 359** is as follows:

- On page 2, line 27, after the word "ethics," delete the words "including issuance"; and
- On page 3, line 1, at the beginning of the line, delete the words "of subpoenas as necessary,".

HB 360, AN ACT relating to the police and firefighters' retirement fund in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.859 is amended to read as follows: ~

- (1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 95.851(13),

for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. If the calculated benefit for a member is less than four thousand eight hundred dollars (\$4,800) per year, the board may increase the annual benefit to a minimum of four thousand eight hundred dollars (\$4,800) if the increase can be supported on an actuarially-sound basis by the fund.

- (2) Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars (\$170) per month. No surviving widow of a retiree shall receive a pension of less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the surviving widows' minimum shall be increased by a like percentage, but the pension increase shall not exceed five percent (5%).
- (3) Within six (6) months after the performance of the actuarial study required by KRS 95.872(6), the rate of retirement annuity of each annuitant shall be increased annually by an amount determined by the study to reflect so much of the annual increase in the cost of living of the annuitant as may be supported on an actuarially sound basis by the fund. So long as the same is published, such studies shall rely on the "All Items Index" of the United States Department of Labor's Consumer Price Indexes, but no increase in the cost of living shall exceed five percent (5%) or the actual increase in the cost of living, whichever is lower. The increases shall be payable to all members of the fund on the effective date of the increases, and all increases granted on July 15, 1990, or thereafter shall be compounded.
- (4) A surviving spouse who does not receive a pension increase pursuant to subsection (2) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in subsection (3) of this section shall receive the same increase an annuitant receives pursuant to subsection (3) of this section, not to exceed a total of five percent (5%).

Section 2. KRS 95.860 is amended to read as follows:

- (1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary or annuity, as the case may be, to an annuity equal to fifty percent (50%) of the member's last rate of salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3). This annuity shall be payable until she dies or remarries. No surviving widow shall receive an annuity of less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children, under age eighteen (18), survive the member, the widow shall receive twenty-five percent (25%) of the member's last rate of salary until the last child attains age eighteen (18). The combined payments to a widow and minor children, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3), shall not exceed seventy-five percent (75%) of his final rate of salary.
- (2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) exist, the children shall be entitled to the benefits provided in KRS 95.861(3).
- (3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.
- (4) If a widow would receive from a combination of:
 - (a) Survivor benefits pursuant to this section, excluding benefits for minor children or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3); and
 - (b) Workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of the deceased member's last rate of salary,

then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2.5%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty percent (50%) of last rate of salary, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3). The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation

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benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump-sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the assistance of the general manager of Kentucky retirement systems to calculate the reduction in survivor benefits when lump-sum payments are involved, and the general manager shall provide such assistance upon request.

- (5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Section 3. KRS 95.861 is amended to read as follows:

- (1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, plus the total increase the retired member may have received in his retirement annuity pursuant to KRS 95.859(3), subject to a maximum payment, excluding cost-of-living increases of the member or the widow, to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to not more than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:
- (a) The widow had been married to the member at least one (1) year prior to his death;
 - (b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;
 - (c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).
- (2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment, excluding cost-of-living increases or increases the retired member may have received in his annuity pursuant to KRS 95.859(3), to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).
- (3) If the pensioner is not survived by a widow and there are minor children the following benefits shall be paid:
- (a) One (1) minor child, fifty percent (50%) of the average salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3);
 - (b) Two (2) minor children, fifteen percent (15%) of the average salary additional;
 - (c) Three (3) or more minor children, ten percent (10%) of the average salary additional,
- subject to a maximum combined payment, excluding cost-of-living increases of the member or the minor children, of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.
- (4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before death.
- (5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost of living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Section 4. KRS 95.862 is amended to read as follows:

- (1) In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy percent (70%) of his last rate of salary. If the calculated monthly benefit is less than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month, the board may increase the monthly benefit to a minimum of five hundred dollars (\$500)~~four hundred dollars (\$400)~~ monthly if the increase can be supported on an actuarially-sound basis by the fund. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of

retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars (\$170) per month. Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 95.860.

- (2) If the member retired for total and permanent occupational disability would receive from a combination of (a) pension disability payments pursuant to subsection (1) of this section, and (b) workers' compensation payments, excluding spouse or dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of his last rate of salary, then the pension system benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The benefit shall not be reduced, however, below an amount equal to two and one-half percent (2-1/2%) of average salary for each year of the member's service. Any reduction in the payment shall be based upon workers' compensation benefits applicable at the time the payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the retiree shall inform the board, and the board shall increase the benefit by the amount of the reductions, but not by more than an amount which would increase the benefit to seventy percent (70%) of the last rate of salary, excluding cost-of-living increases. The board of trustees may pay estimated benefits to a retiree, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the actual benefits shall be determined and the account corrected retroactive to the effective date of the benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the disability retirement annuity on a monthly rather than a lump sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the retired member. The board may request the assistance of the general manager of Kentucky Retirement Systems to calculate the reduction in the retirement benefit when lump sum payments are involved, and the general manager shall provide such assistance upon request.
- (3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

Section 5. KRS 95.863 is amended to read as follows:

- (1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least ten (10) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2-1/2%) of average salary, as defined in KRS 95.851(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary, and a maximum payment, excluding cost-of-living increases, of fifty percent (50%) of average salary. If the calculated monthly benefit is less than ~~five hundred dollars (\$500)~~~~four hundred dollars (\$400)~~ per month, the board may increase the monthly benefit to a minimum of ~~five hundred dollars (\$500)~~~~four hundred dollars (\$400)~~ monthly if the increase can be supported on an actuarially-sound basis by the fund. Payment of this annuity shall be made during disability of the member. Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars (\$170) per month. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 95.861.
- (2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from the date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.
- (3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

The Committee Substitute No. 1 to **HB 360** is as follows:

HB 360, AN ACT relating to the police and firefighters' retirement fund in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.859 is amended to read as follows:

- (1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 95.851(13), for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. If the calculated benefit for a member is less than four thousand eight hundred dollars (\$4,800) per year, the board may increase the annual benefit to a minimum of four thousand eight hundred dollars (\$4,800) if the increase can be supported on an actuarially-sound basis by the fund.
- (2) Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars (\$170) per

month. No surviving widow of a retiree shall receive a pension of less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the surviving widows' minimum shall be increased by a like percentage, but the pension increase shall not exceed five percent (5%).

- (3) Within six (6) months after the performance of the actuarial study required by KRS 95.872(6), the rate of retirement annuity of each annuitant shall be increased annually by an amount determined by the study to reflect so much of the annual increase in the cost of living of the annuitant as may be supported on an actuarially sound basis by the fund. So long as the same is published, such studies shall rely on the percentage increase in the annual average of the consumer price index for all items for the most recent calendar year as published by~~["All Items Index" of]~~ the United States Department of Labor's Bureau of Labor Statistics, not to~~Consumer Price Indexes, but no increase in the cost of living shall~~ exceed five percent (5%)~~for the actual increase in the cost of living, whichever is lower~~. In any year that the percentage increase in the annual average of the consumer price index for all items is less than five percent (5%), the board may set the annual increase at a rate higher than the increase of the consumer price index but not in excess of five percent (5%), if the board determines that the increase can be supported on an actuarially-sound basis by the fund. The increases shall be payable to all members of the fund on the effective date of the increases, and all increases granted on July 15, 1990, or thereafter shall be compounded.
- (4) A surviving spouse who does not receive a pension increase pursuant to subsection (2) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in subsection (3) of this section shall receive the same increase an annuitant receives pursuant to subsection (3) of this section, not to exceed a total of five percent (5%).

Section 2. KRS 95.860 is amended to read as follows:

- (1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary or annuity, as the case may be, to an annuity equal to fifty percent (50%) of the member's last rate of salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3). This annuity shall be payable until she dies or remarries. No surviving widow shall receive an annuity of less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children, under age eighteen (18), survive the member, the widow shall receive twenty-five percent (25%) of the member's last rate of salary until the last child attains age eighteen (18). The combined payments to a widow and minor children, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3), shall not exceed seventy-five percent (75%) of his final rate of salary.
- (2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) exist, the children shall be entitled to the benefits provided in KRS 95.861(3).
- (3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.
- (4) If a widow would receive from a combination of:
- (a) Survivor benefits pursuant to this section, excluding benefits for minor children or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3); and
 - (b) Workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of the deceased member's last rate of salary,

then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2.5%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty percent (50%) of last rate of salary, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3). The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump-sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the

assistance of the general manager of Kentucky retirement systems to calculate the reduction in survivor benefits when lump-sum payments are involved, and the general manager shall provide such assistance upon request.

- (5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Section 3. KRS 95.861 is amended to read as follows:

- (1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, plus the total increase the retired member may have received in his retirement annuity pursuant to KRS 95.859(3), subject to a maximum payment, excluding cost-of-living increases of the member or the widow, to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to not more than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:
 - (a) The widow had been married to the member at least one (1) year prior to his death;
 - (b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;
 - (c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).
- (2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment, excluding cost-of-living increases or increases the retired member may have received in his annuity pursuant to KRS 95.859(3), to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).
- (3) If the pensioner is not survived by a widow and there are minor children the following benefits shall be paid:
 - (a) One (1) minor child, fifty percent (50%) of the average salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3);
 - (b) Two (2) minor children, fifteen percent (15%) of the average salary additional;
 - (c) Three (3) or more minor children, ten percent (10%) of the average salary additional,
 subject to a maximum combined payment, excluding cost-of-living increases of the member or the minor children, of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.
- (4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before death.
- (5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost of living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Section 4. KRS 95.862 is amended to read as follows:

- (1) In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy percent (70%) of his last rate of salary. If the calculated monthly benefit is less than five hundred dollars (\$500)~~four hundred dollars (\$400)~~ per month, the board may increase the monthly benefit to a minimum of five hundred dollars (\$500)~~four hundred dollars (\$400)~~ monthly if the increase can be supported on an actuarially-sound basis by the fund. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars (\$170) per month. Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 95.860.

- (2) If the member retired for total and permanent occupational disability would receive from a combination of (a) pension disability payments pursuant to subsection (1) of this section, and (b) workers' compensation payments, excluding spouse or dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of his last rate of salary, then the pension system benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The benefit shall not be reduced, however, below an amount equal to two and one-half percent (2-1/2%) of average salary for each year of the member's service. Any reduction in the payment shall be based upon workers' compensation benefits applicable at the time the payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the retiree shall inform the board, and the board shall increase the benefit by the amount of the reductions, but not by more than an amount which would increase the benefit to seventy percent (70%) of the last rate of salary, excluding cost-of-living increases. The board of trustees may pay estimated benefits to a retiree, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the actual benefits shall be determined and the account corrected retroactive to the effective date of the benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the disability retirement annuity on a monthly rather than a lump sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the retired member. The board may request the assistance of the general manager of Kentucky Retirement Systems to calculate the reduction in the retirement benefit when lump sum payments are involved, and the general manager shall provide such assistance upon request.
- (3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

Section 5. KRS 95.863 is amended to read as follows:

- (1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least ten (10) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2-1/2%) of average salary, as defined in KRS 95.851(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary, and a maximum payment, excluding cost-of-living increases, of fifty percent (50%) of average salary. If the calculated monthly benefit is less than ~~five hundred dollars (\$500)~~~~four hundred dollars (\$400)~~ per month, the board may increase the monthly benefit to a minimum of ~~five hundred dollars (\$500)~~~~four hundred dollars (\$400)~~ monthly if the increase can be supported on an actuarially-sound basis by the fund. Payment of this annuity shall be made during disability of the member. Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars (\$170) per month. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 95.861.
- (2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from the date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.
- (3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

HB 397, AN ACT relating to auxiliary county police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
- (a) State Police officers;
 - (b) City, county, and urban-county police officers, except for unpaid members of an auxiliary county police force established under KRS 70.542;
 - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;

and

- (h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.
- (2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;~~[and]~~
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; **and**
 - (i) Unpaid members of an auxiliary county police force established under KRS 70.542.**
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
 - (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables; and
 - (d) Jailers.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Section 2. KRS 95.955 is amended to read as follows:

- (1) All police officers and auxiliary police officers originally appointed or employed by a city, urban-county, or charter county government after July 14, 1992, shall, within one (1) year of their appointment or employment, successfully complete at least four hundred (400) hours of basic training administered or approved by the Department of Criminal Justice Training.
- (2) All police officers and auxiliary police officers specified in subsection (1) of this section shall, upon completion of the basic training required in the same section, successfully complete forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training.
- (3) All police officers and auxiliary police officers appointed or employed before July 14, 1992, shall successfully complete forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training.
- (4) In the event of extenuating circumstances beyond the control of the officer such as injury, illness, or personal tragedy which prevents the officer from completing the basic or in-service training within the time specified in subsections (1) to (3) of this section, the officer shall complete the training within one hundred eighty (180) days after return to duty. Any police officer or auxiliary police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be dismissed from employment as a police officer or from membership on the auxiliary police force.
- (5) The provisions of this section shall not apply to unpaid members of an auxiliary county police force established under KRS 70.542.**

HB 431, AN ACT changing the classification of the City of Henderson, in Henderson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Henderson, in Henderson County, is such as to justify its being classified as a city of the second class;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Henderson, in Henderson County, is transferred from the third to second class of cities.

HB 438, AN ACT relating to tourism and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.350 is amended to read as follows:

- (1) The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting convention and tourist activity.
- (2) The local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth classes located therein may, by joint or separate action, establish recreational, tourist and convention commissions for the purpose of promoting convention and tourist activity.
- (3) The local governing bodies of two (2) or more counties may jointly establish recreational, tourist and convention commissions for the purpose of promoting convention and tourist activity.
- ~~(4) Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.~~
- ~~(5)~~ For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide the boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize the boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 2. KRS 91A.360 is amended to read as follows:

- (1) The commission established pursuant to subsection (2) of KRS 91A.350 shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive. Appointments~~Candidates for appointment~~ to a commission shall be made by~~submitted to~~ the appropriate chief executive officer or officers in the following manner:
 - (a) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association ~~and~~.
 - ~~(b)~~ one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection~~(1)(a) and (1)(b) of this section~~, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from~~a list of six (6) or more names of~~ persons residing within the jurisdiction of the commission~~, submitted by the Kentucky Hotel and Motel Association~~. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.
 - ~~(b)(c)~~ One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from~~a list of three (3) or more names of~~ persons residing within the jurisdiction of the commission~~, submitted by the Kentucky Restaurant Association~~. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.
 - ~~(c)(d)~~ One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission.
 - ~~(d)(e)~~ Two (2) commissioners shall be appointed in the following manner:

1. By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or
 2. One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.
- (2) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c)(d), shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists; if not, the association or associations shall by election within ten (10) days determine the commissioner from the list or lists submitted by plurality vote of the aggregate membership. Vacancies shall be filled in the same manner that original appointments are made.
 - (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.
 - (4) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of KRS 91A.350 to 91A.390. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.
 - (5) The books of the commission shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of names from which commission members are selected, to the appropriate chief executive officer or officers, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
 - (6) A commissioner may be removed from office, by joint or separate action, of the appropriate chief executive officer or officers of the local governing body or bodies that established the commission, ~~consistent with the method by which the commission was established, and~~ as provided by KRS 65.007.

Section 3. KRS 91A.372 is amended to read as follows:

- (1) The commission established pursuant to subsection (2) of KRS 91A.350 by an urban-county government shall be composed of nine (9) members appointed by the mayor ~~chief elective official~~ of the urban-county government in the following manner:
 - (a) Three (3) commissioners from a list submitted by the local hotel and motel association.
 - (b) One (1) commissioner from a list submitted by the local restaurant association or associations.
 - (c) One (1) commissioner from a list submitted by the local chamber of commerce.
 - (d) Four (4) commissioners who shall be residents of the urban-county.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the chief elective official of the urban-county shall appoint three (3) commissioners for a term of three (3) years, three (3) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as event coordinators, advertising firms, chambers of commerce, publishers and printers.
- (5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of the urban-county government ~~and the chief elective official~~.

The Committee Substitute No. 1 to **HB 438** is as follows:

HB 438, AN ACT relating to tourism and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.350 is amended to read as follows:

- (1) The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting convention and tourist activity.
- (2) The local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth classes located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting and developing convention and tourist activities and facilities~~activity~~.
- (3) The local governing bodies of two (2) or more counties may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities~~activity~~.
- (4) Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.
- (5) For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide the boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize the boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 2. KRS 91A.360 is amended to read as follows:

- (1) The commission established pursuant to subsection (2) of KRS 91A.350 shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive. ~~Appointments~~~~Candidates for appointment~~ to a commission shall be made by~~submitted to~~ the appropriate chief executive officer or officers in the following manner:
 - (a) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association ~~and~~.
 - ~~(b)~~ one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection~~(1)(a) and (1)(b) of this section~~, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from ~~a list of six (6) or more names of~~ persons residing within the jurisdiction of the commission and representing local hotels or motels, ~~submitted by the Kentucky Hotel and Motel Association~~. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.
 - ~~(b)(c)~~ One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from ~~a list of three (3) or more names of~~ persons residing within the jurisdiction of the commission and representing a local restaurant, ~~submitted by the Kentucky Restaurant Association~~. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.
 - ~~(c)(d)~~ One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.
 - ~~(d)(e)~~ Two (2) commissioners shall be appointed in the following manner:

1. By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or
 2. One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.
- (2) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c)(d), shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists; ~~if not, the association or associations shall by election within ten (10) days determine the commissioner from the list or lists submitted by plurality vote of the aggregate membership~~. Vacancies shall be filled in the same manner that original appointments are made.
 - (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.
 - (4) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of KRS 91A.350 to 91A.390. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.
 - (5) The books of the commission and its account as established in subsection (2) of Section 5 of this Act shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of names from which commission members are selected, to the appropriate chief executive officer or officers, to the State Auditor of Public Accounts, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
 - (6) A commissioner may be removed from office, by joint or separate action, of the appropriate chief executive officer or officers of the local governing body or bodies that established the commission, ~~consistent with the method by which the commission was established, and~~ as provided by KRS 65.007.

Section 3. KRS 91A.372 is amended to read as follows:

- (1) The commission established pursuant to subsection (2) of KRS 91A.350 by an urban-county government shall be composed of nine (9) members appointed by the mayor~~chief elective official~~ of the urban-county government in the following manner:
 - (a) Three (3) commissioners from a list submitted by the local hotel and motel association.
 - (b) One (1) commissioner from a list submitted by the local restaurant association or associations.
 - (c) One (1) commissioner from a list submitted by the local chamber of commerce.
 - (d) Four (4) commissioners who shall be residents of the urban-county.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the chief elective official of the urban-county shall appoint three (3) commissioners for a term of three (3) years, three (3) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as event coordinators, advertising firms, chambers of commerce, publishers and printers.
- (5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of the urban-county government~~(and the chief elective official)~~.

Section 4. KRS 91A.380 is amended to read as follows:

- (1) The commission established pursuant to subsection (3) of KRS 91A.350 shall be composed of six (6) members from each county to be appointed by the county judge/executive, with the approval of the fiscal court, one (1) of whom shall be a member of the General Assembly in whose district the county or part of the county is located in the following manner:

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- (a) One (1) commissioner from a list of at least three (3) persons submitted by the local restaurant association or associations;
 - (b) One (1) commissioner from a list of at least three (3) persons submitted by the local chamber of commerce;
 - (c) One (1) commissioner by the county judge/executive; and
 - (d) Two (2) commissioners from a list of at least six (6) persons submitted by the local hotel and motel association or associations.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge/executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and two (2) commissioners for a term of one (1) year.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business~~[- provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers].~~
- (5) The books of the commission and its account as established in subsection (2) of Section 5 of this Act shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, to the State Auditor of Public Accounts, and to the county judge/executive of each county. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
- (6) A commissioner may be removed from office as provided by KRS 65.007.
- Section 5. KRS 91A.390 is amended to read as follows:
- (1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action~~[-]~~ shall enact an ordinance for~~[- the collection and]~~ the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.
- (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.
- ~~(3) [(2)]~~ A portion of the money collected from the imposition of this tax, as determined by the, tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business ~~[and shall include athletic stadiums]~~. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.
- ~~(4) [(3)]~~ An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.
- ~~(5) [(4)]~~ The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

~~(6)(5)~~ The fiscal court or legislative body of a city establishing a commission pursuant to subsection (1) or (2) of KRS 91A.350 and, in its own name, a commission established pursuant to subsection (1) of KRS 91A.350 is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

~~(7)(6)~~ A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

SECTION 6. A NEW SECTION OF KRS 91A.350 TO 91A.390 IS CREATED TO READ AS FOLLOWS:

- (1) Upon request, the Auditor of Public Accounts shall review the final report and all related work papers and documents of the independent certified public accountant relating to the audit required under Section 2 of this Act. If the Auditor of Public Accounts determines that there are substantive discrepancies in the commission's books or account, the Auditor of Public Accounts shall notify the director of the commission, the county attorney, and the appropriate legislative body of its findings.
- (2) Any resident of the county may bring an action in the Circuit Court to enforce the provisions of KRS 91A.350 to 91A.390. The Circuit Court shall hear the action and, on a finding that the commission has violated the provisions of KRS 91A.350 to 91A.390, shall order the commission to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the commission, court costs, to be paid from the commission's account.

Section 7. KRS 91A.392 is amended to read as follows:

- (1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, the fiscal court in a county containing a city of the first class may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.
- (2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS ~~91A.390(6)~~~~(91A.390(5))~~ to finance in part the expansion of a government-owned convention facility located in the central business district of the city of the first class located in the county.
- (3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the fiscal court shall take action to repeal the ordinance which levied the tax.

The Committee on Banking and Insurance reported **HB 371**, **HB 343**, with Committee Substitute attached thereto, **HB 445**, with Committee Substitute attached thereto, **HB 453**, with Committee Substitute attached thereto, and **HB 595**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 371, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-150 is amended to read as follows:

- (1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:
 - (a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or
 - (b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or
 - (c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

- (2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.
- (3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.
- (4) *It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract violating this subsection is void.*
- (5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.
- ~~(6)~~~~(5)~~ The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars (\$100) per month.
- ~~(7)~~~~(6)~~ The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

HB 343, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *If two (2) or more motor vehicles owned by the same insured are involved in the same accident and each vehicle is covered by a liability policy issued to the insured by the same insurer, the limits of liability under each policy shall apply and the total limits of liability under all such policies issued to the same insured for the same accident shall be equal to the total of the limits of liability of each such policy added together.*
- (2) *Subsection (1) of this section shall apply to motor vehicle liability insurance policies issued or renewed on or after the effective date of this Act.*

The Committee Substitute No. 1 to **HB 343** is as follows:

HB 343, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *If two (2) or more motor vehicles owned by the same insured are involved in the same accident and each vehicle is covered by a liability policy issued to the insured by the same insurer, the limits of liability coverage under each policy shall apply, in accordance with the liability allocated to the operator of each vehicle.*
- (2) *Nothing in this section shall be construed to provide for the stacking or aggregating of liability coverages of vehicles not involved in the accident.*
- (3) *Subsection (1) of this section shall apply to motor vehicle liability insurance policies issued or renewed on or after the effective date of this Act.*

HB 445, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOW:

- (1) *Insurance companies shall give a thirty percent (30%) discount on the property protection coverages in a homeowners or fire insurance policy if a fire protection sprinkler system is installed in the covered dwelling and the system was installed by a licensed contractor.*
- (2) *The provisions of this section shall apply to all homeowners and fire insurance policies issued or renewed on and after the effective date of this Act.*

The Committee Substitute No. 1 to **HB 445** is as follows:

HB 445, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOW:

Every property insurer, as defined in this chapter, authorized to do business in this state shall include a premium credit or discount provision in its rates filed with the commissioner for buildings equipped with an automatic sprinkler system. The amount of the discount shall reflect the cost savings the insurer expects to realize in insuring property equipped with automatic sprinkler systems.

SECTION 2. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The provisions of Section 1 of this Act shall apply to all property insurer rate filings on and after the effective date of this Act.

HB 453, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-020 is amended to read as follows:

- (1) "Industrial life insurance" is that form of life insurance written under policies of face amount of \$3,000 or less issued on the basis of an industrial mortality table, and under which premiums are payable monthly or more often.
- (2) "Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where ~~such~~ policies are issued on the lives of not less than four (4) employees at date of issue. Premiums for ~~the~~ ~~such~~ policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from ~~the~~ ~~such~~ funds and partly from funds contributed by the insured employees.
- (3) "College life insurance" is that form of life insurance sold to college students, the initial premiums for which are financed by a promissory note.
- (4) "Viatical settlement broker" means an individual, partnership, corporation, or other ~~person~~ ~~entity~~ who or that for another and for a fee, commission, or other valuable consideration, offers or advertises the availability of viatical settlements, introduces a viator to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one (1) or more viatical settlement providers. "Viatical settlement broker" does not include an attorney, certified public accountant, or financial planner who is retained to represent the viator and whose compensation is not paid by the viatical settlement provider.
- (5) "Viatical settlement contract" means a written agreement entered into between a viatical settlement provider and a ~~viator~~ ~~person~~ owning a life insurance policy or who owns or is covered under a group policy insuring the life of a person ~~and the~~ ~~who has a catastrophic or life-threatening illness or condition. The~~ agreement ~~establishes~~ ~~shall establish~~ the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. A viatical settlement contract also includes a contract for a loan or other financial transaction secured primarily by an individual or group life policy, with the following exceptions:
 - (a) A loan by a life insurance company in accordance with the terms of the life insurance contract; or
 - (b) A loan secured by the cash value of a policy.
- (6) "Viatical settlement provider" means an individual, partnership, corporation, or other ~~person~~ ~~entity~~ who or that enters into an agreement with a person owning a life insurance policy or who owns or is covered under a group policy insuring the life of a person ~~who has a catastrophic or life-threatening illness or condition~~, under the terms of which the viatical settlement provider pays compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. Viatical settlement provider does not include:
 - (a) Any bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;
 - (b) The issuer of a life insurance policy that provides accelerated benefits that accelerate in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider; ~~or~~
 - (c) Any natural person who is not licensed in accordance with Section 2 this Act and who enters into no more than one (1) agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit; or
 - (d) A related provider trust.

- (7) "Viator" means the owner of a life insurance policy that insures the life of a person~~[who has a catastrophic or life-threatening illness or condition, or the certificate holder]~~ who enters into a viatical settlement contract~~[an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider]~~.
- (8) "Independent third-party trustee" means a custodial bank that:
- (a) Carries out custodial functions for the viatical settlement provider through its trust department;
 - (b) Is audited annually by an independent certified public accountant whose audit report, together with the related financial statements, and whose report on internal controls are made available to the viatical settlement provider and the commissioner upon request;
 - (c) Maintains policies and procedures requiring that the custodied deposits are recognized as deposits to be set aside and reserved as the specific property of the viatical settlement provider, and are not subject to any creditor relationship with the custodial bank;
 - (d) Maintains blanket bond coverage relating to its custodial functions with limits equal to or exceeding those suggested by the American Bankers Association;
 - (e) Maintains capital and surplus funds equal to or exceeding twenty-five million dollars (\$25,000,000) unless it is licensed and regulated by the Commonwealth of Kentucky, in which case its capital and surplus funds shall equal or exceed ten million dollars (\$10,000,000);
 - (f) Has demonstrated sufficient experience in handling custodial accounts, and shall not include any person associated, affiliated, or under common control with a viatical settlement provider or viatical settlement broker; and
 - (g) Is licensed in good standing with the Department of Financial Institutions, or comparable federal authority.
- (9) "Related provider trust" means a trust established by a licensed viatical settlement provider for the purpose of entering into or owning viatical settlement contracts. This term shall not include an independent third-party trustee.
- (10) "Viatical settlement purchaser" means a person other than a licensee under Subtitle 15 of KRS Chapter 304, who gives consideration for a life insurance policy or an interest in a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit.

Section 2. KRS 304.15-700 is amended to read as follows:

- (1) No person may act as a viatical settlement provider or broker, or enter into or solicit a viatical settlement contract without first having obtained a license from the commissioner. All applicants for a viatical settlement broker license shall:
- (a) Be registered in accordance with KRS 292.330, and shall have successfully passed a written examination as referenced in KRS 292.330(5). The required examinations are:
 - 1. The Series 63 Uniform Securities Law Examination; and
 - 2. The Series 6 Variable Annuities Examination;
 - (b) Be subject to the provisions of 18 U.S.C. sec. 1033; and
 - (c) Be a licensed life insurance agent in accordance with KRS 304.9-220.
- (2) The examination of contracts shall take place simultaneously with the company's approval process. Any form to be used in the solicitation of the transaction and the transaction shall be filed for prior approval with the department and shall contain a form number. Viatical settlement providers and brokers shall provide the department notice of any change in the licensee's name, residence address, principal business address, or mailing address at least thirty (30) days prior to the effective date of the change~~[Provided that the viatical settlement provider or viatical settlement broker complies with KRS 304.15-020 and KRS 304.15-700 to 304.15-725, the provider or broker transacting business in this state prior to July 15, 1998, may continue to transact the business until the commissioner approves or disapproves the provider's or broker's application for license. The application shall be filed on forms provided by the commissioner no later than November 1, 1998].~~
- (3)~~(2)~~ The commissioner shall promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to provide for the following:
- (a) Licensing of viatical settlement providers;
 - (b) Licensing of viatical settlement brokers;
 - (c) Termination~~[and the termination]~~ or revocation of the license of a viatical settlement provider and a viatical settlement broker;
 - (d) Prescribing that the amount of the viatical examination fee shall be equal to the life examination fee; and
 - (e) Prescribing the bond and errors and omissions amount required in subsection (4) of this section.

- (4) Viatical settlement providers and viatical settlement brokers shall maintain errors and omissions coverage and shall post a bond. Any errors and omissions policy issued to a viatical settlement provider or broker, or renewed after the effective date of this Act shall remain in effect until thirty (30) days after the issuer provides written notice to the commissioner of the termination or nonrenewal of the policy.
- (5)(3) No person shall use any viatical settlement contract in this Commonwealth unless it has been filed with and approved by the commissioner. Any viatical settlement contract form filed with the commissioner shall be deemed approved if it has not been disapproved within sixty (60) days of filing. The commissioner shall disapprove a viatical settlement contract form if, in the determination of the commissioner, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise are misleading or unfair to the policyowner. Upon notice and hearing the commissioner shall withdraw approval of any contract later determined to be unreasonable, misleading, unfair, or contrary to the interest of the public.
- (6) A licensed viatical settlement provider shall not use any person to perform the functions of a viatical settlement broker as defined in Section 1 of this Act unless the person holds a current and valid license as a viatical settlement broker. Individuals employed by viatical settlement providers shall not engage in viatical settlement broker activities unless they hold a current and valid license. A licensed viatical settlement broker shall not use any person to perform the functions of a viatical settlement provider as defined in Section 1 of this Act unless the person holds a current and valid license as a viatical settlement provider. Individuals employed by viatical settlement brokers shall not engage in viatical settlement broker activities unless they hold a current valid license.
- (7) If any employee of a licensee violates any provision of Sections 1 to 13 of this Act, the department may take disciplinary action against the employee as if they were a licensee and against the employer licensee.
- (8) When a viatical settlement provider elects to use a related provider trust in accordance with Section 11 of this Act, the viatical settlement provider shall file notice of its intention to use that trust with the department with a copy of the trust agreement. Any change in the trust agreement shall be filed with the commissioner prior to its effect.
- (9) Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker represents the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.
- (10) Any additional death benefit payment on a life insurance policy that is the subject of a viatical settlement contract with a double or additional indemnity for accidental death shall be payable to the following:
- (a) The beneficiary last named by the policy owner prior to entering into the viatical settlement contract; or
 - (b) To the estate of the viator in the absence of a beneficiary.

Section 3. KRS 304.15-705 is amended to read as follows:

- (1) The commissioner may, when the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interest of the public. The reasonable expenses incurred in conducting any examination shall be paid by the licensee or applicant.
- (2) Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.
- (3) Records of all transactions of viatical settlement contracts shall be maintained by the licensee for five (5) years after the death of the viator, and shall be available to the commissioner for inspection during reasonable business hours. All other business records shall be kept for a period of five (5) years following creation of records, or the completion of the purpose for which records were created, whichever shall occur last.
- (4) Upon issuance of a viatical settlement provider or broker license, the licensee shall be deemed to have appointed the Kentucky Secretary of State as the licensee's attorney to receive service of process issued against the licensee in this state. The appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the licensee, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the licensee, or liabilities or duties arising therefrom. KRS 304.3-230(5) to (8) shall apply to the service of process.

Section 4. KRS 304.15-715 is amended to read as follows:

- (1) A viatical settlement provider entering into a viatical settlement contract with any person~~[who has a catastrophic or life-threatening illness or condition]~~ shall first obtain:
 - (a) A written statement from a licensed attending physician that the person is of sound mind and under no constraint or undue influence; and
 - (b) A witnessed document in which the person consents to the viatical settlement contract, acknowledges any[the] catastrophic or life-threatening illness, represents that he or she has a full and complete understanding of the viatical settlement contract and a full and complete understanding of the benefits of the life insurance policy,

releases his or her medical records, and acknowledges that he or she has entered into the viatical settlement contract freely and voluntarily.

- (2) All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.
- (3) All viatical settlement contracts entered into in this state shall contain an unconditional refund provision that provides for a refund within at least thirty (30) days from the date of the contract or fifteen (15) days from the receipt of the viatical settlement proceeds, whichever is less.
- (4) ~~[Immediately upon receipt from the insurer of the effect of the transfer of ownership of the insurance policy, the viatical settlement provider shall pay the proceeds of the settlement to an account in a custodian bank that meets the qualifications outlined in 806 KAR 7:090 Section 3.]~~ The independent third-party trustee[custodian] shall [be required to] transfer the proceeds that are due to the viator within two (2) business days upon receipt of acknowledgment of the transfer of ownership from the insurer.
- (5) Failure to tender the viatical settlement by the date disclosed to the viator renders the contract null and void.
- (6) All licensed viatical settlement providers transacting business in Kentucky ~~shall[must]~~ have the ~~insured's[viator's]~~ medical condition reviewed by a qualified third-party physician or physician firm. Qualification shall be met with the approval of Standard and Poors, Moody's, or any other reviewing entity approved by the commissioner.
- (7) After viatication, the viatical settlement provider, viatical settlement broker, viatical settlement purchaser, or owner of the policy shall not transfer any interest in the policy without giving prior notice to the insured. The written notice shall be prior to each change of ownership in any interest in the policy. Viatical settlement providers shall give written notice of this notice requirement to any person to whom it sells an interest in a viatical settlement. This provision shall not preempt any laws pertaining to securities effective in this state.
- (8) Within ten (10) days of the expiration of the rescission period, the viatical settlement provider shall send written notification to the insurer that the policy has become the subject of a viatical transaction.

SECTION 5. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The department shall issue a cease and desist order upon a person that violates any statute, administrative regulation, or order of the commissioner regarding viatical settlements.
- (2) When the department finds that a violation presents an immediate danger to the public that requires an immediate final order, it shall issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for ninety (90) days. If the department initiates an administrative hearing under KRS Chapter 13B the emergency cease and desist order remains effective, absent an order by an appellate court of competent jurisdiction, until a final administrative adjudication of the violation charged by the department.
- (3) The department may impose and collect an administrative fine not to exceed ten thousand dollars (\$10,000) for each violation of a cease and desist order issued in accordance with this section.

SECTION 6. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any person:

- (1) To knowingly enter into a viatical settlement contract when the subject life insurance policy was obtained by means of a false, deceptive, or misleading application for the life insurance policy;
- (2) In the solicitation or purchase of a viatical settlement:
 - (a) To employ a device, scheme, or artifice to defraud;
 - (b) To obtain money or property by means of an untrue statement of a material fact, or by any omission to state a material fact;
 - (c) To engage in any transaction, practice, or course of business that operates or would operate as a fraud or deceit upon a person; and
 - (d) To misrepresent that the viatical provider, viatical broker, or other licensee has been guaranteed, sponsored, recommended, or approved by the state, or by any local, state, or federal agency or officer thereof.

This subsection shall not prohibit a statement that the person is licensed, if that statement is true and the effect of the statement is not misrepresented;

- (3) To act as a viatical settlement broker if the person is a viatical settlement provider, whether entitled to collect a fee or commission directly or indirectly in the same viatical settlement contract;
- (4) To act as the viatical settlement broker or provider regarding a life insurance policy if the broker or provider is the life insurance agent that produced or receives commissions from the policy being viated; and
- (5) To pay any compensation or provide anything of value to an insured's physician, attorney, accountant, or any other person who provides medical, legal, or financial advice to the insured as a finder's or referral fee.

SECTION 7. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) A viatical settlement transaction shall be completed through the independent third-party trustee. Prior to execution of the viatical settlement contract, the viatical settlement provider shall pay the proceeds due to the viator, and any commission due the viatical settlement broker, to an escrow or trust account managed by the independent third-party trustee pending acknowledgment of the insurer of the transfer of ownership of the policy. Written proof of deposit from the independent third-party trustee shall be provided to the viator prior to execution of the contract. An advance or partial payment of the proceeds from the viatical settlement provider to the viator under the settlement contract shall not be used to effect transfer of the subject policy. Partial payment shall be made at the sole discretion and risk of the viatical settlement provider.
- (2) Upon receipt of all viatical settlement contract proceeds, the independent third-party trustee shall hold the proceeds for disbursement in accordance with Sections 1 to 13 of this Act and the viatical settlement contract. In no event shall the viatical settlement provider or independent third-party trustee pay any commission or fee to the viatical settlement broker prior to the end of the rescission period.
- (3) The viatical settlement contract is rescinded if the insured dies during the rescission period. If the independent third-party trustee receives information that the insured died during the rescission period and the trustee still holds the funds, it shall verify the death and then refund the proceeds to the viatical settlement provider. If the proceeds have been disbursed by the independent third-party trustee and the insured died during the rescission period, the viatical settlement provider shall pay the viator the difference between the death benefit and the amount of the proceeds disbursed to the viator. No commission or fee shall be due the viatical settlement broker if the insured dies during the rescission period.
- (4) A viatical settlement provider shall not negotiate or enter into a viatical settlement contract with a viator if the policy contains an accelerated benefits provision allowing benefits to be paid for a period in advance of the expected death that is equal to or exceeds the time period available under the viatical settlement contract, and at an amount that is equal to or exceeds the amount available under the viatical settlement contract unless the issuer of the policy, in writing, denies, declines, or refuses to provide the accelerated benefits. If the insurer does not respond to a request to effectuate an accelerated benefits provision sent by certified mail within thirty (30) days after receiving the request, the insurer shall be deemed to have denied, declined, or refused to provide the accelerated benefits.

SECTION 8. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) In addition to the penalties and other enforcement provisions of Sections 1 to 15 of this Act, if any person violates any provision of Sections 1 to 13 of this Act, or any administrative regulations promulgated under Sections 1 to 13 of this Act, the department may seek an injunction in Franklin Circuit Court or in the Circuit Court of the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the department determines necessary to restrain the person from committing the violation.
- (2) Any person damaged by the acts of a person in violation of any provision of Sections 1 to 13 of this Act may bring a civil action against the person in the Circuit Court of the county in which the alleged violator resides, or has a principal place of business, or in the county where the alleged violation occurred.

SECTION 9. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The two (2) year incontestability period set forth in KRS 304.15-080 shall not apply to any life insurance policy that is the subject of a viatical transaction, if there was a failure to disclose any medical condition on the application for the policy.

Section 10. KRS 304.15-710 is amended to read as follows:

A viatical settlement provider shall provide the viator a copy of the department's consumer guide relating to viaticals and disclose the following information to the viator no later than the date that the viatical settlement contract is signed by all parties:

- (1) That possible alternatives to viatical settlement contracts may exist for persons with catastrophic or life-threatening illnesses, including, but not limited to, accelerated benefits offered by the issuer of the life insurance policy;
- (2) That some or all of the proceeds of the viatical settlement may be taxable, and that assistance should be sought from a personal tax advisor;
- (3) That the viatical settlement could be subject to the claims of creditors;
- (4) That receipt of a viatical settlement may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate agencies;
- (5) That the policyowner has a right to rescind a viatical settlement contract within thirty (30) days of the date it is executed by all parties or within fifteen (15) days of the receipt of the viatical settlement proceeds by the viator, whichever is less, that the contract is rescinded if the insured dies within the rescission period; ~~and~~
- (6) That viaticating a joint policy or policy with family riders or coverage of any life other than the viator may cause a loss of coverage on the other lives and that the viator should consult with an insurance advisor;
- (7) That the viatical settlement provider shall deposit the proceeds due the viator and any commissions due the viatical settlement broker with an independent third-party trustee prior to the execution of the contract, and that the funds will

be available to the viator within two (2) business days of notification from the insurer of the effect of the transfer of ownership;

- (8) The name, address, and telephone number of the independent third-party trustee and the fact that the viator may inspect and receive copies of the relevant trust, or escrow agreements, or other documents; and
- (9) The amount and method of calculation of any fee, commission, or compensation to be paid the viatical settlement broker.

SECTION 11. A NEW SECTION OF SUBTITLE 25 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A related provider trust shall be subject to all provisions of Sections 1 to 15 of this Act that apply to the viatical settlement provider, and that establish the related provider trust, except subsection (1) of Section 2 of this Act shall not apply to the related provider trust. A viatical settlement provider shall not establish more than one (1) related provider trust, and the sole trustee of the related provider trust shall be the viatical settlement provider whose name shall appear in the name of the trust. The viatical settlement provider is liable and responsible for the performance of all obligations of the related trust and compliance of the trust with all provisions of Sections 1 to 15 of this Act.

Section 12. KRS 304.42-190 is amended to read as follows:

No person, including an insurer, agent, ~~or~~ affiliate of an insurer, viatical settlement provider, or viatical settlement broker shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the Insurance Guaranty Association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Kentucky Life and Health Insurance Guaranty Association Act. This section shall not apply to the Kentucky Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

SECTION 13. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) When a license issued under Section 2 of this Act is suspended or revoked, the licensee, if the commissioner directs, shall proceed, immediately following the effective date of the suspension or revocation to conclude the affairs it is transacting under its license. The licensee shall not solicit, negotiate, advertise, or effectuate new contracts. The department shall retain jurisdiction over the licensee and trust until all viatical contracts have been fulfilled or canceled or have expired.
- (2) During the suspension or revocation period in which the licensee is concluding existing contracts, the licensee shall continue to comply with Sections 1 to 15 of this Act as if the license were in force.

SECTION 14. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provisions of Sections 1 to 13 of this Act shall be subject to civil fines by the commissioner in an amount not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000). Each violation shall constitute a separate offense.

SECTION 15. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The department shall refer violations to the Division of Insurance Fraud Investigation for further investigation, and, if appropriate, the Division of Insurance Fraud Investigation shall proceed as set forth in KRS 304.47-050(5).

The Committee Substitute No. 1 to **HB 453** is as follows:

HB 453, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-020 is amended to read as follows:

- (1) "Industrial life insurance" is that form of life insurance written under policies of face amount of \$3,000 or less issued on the basis of an industrial mortality table, and under which premiums are payable monthly or more often.
- (2) "Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where ~~such~~ policies are issued on the lives of not less than four (4) employees at date of issue. Premiums for ~~the~~ such policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from ~~the~~ such funds and partly from funds contributed by the insured employees.
- (3) "College life insurance" is that form of life insurance sold to college students, the initial premiums for which are financed

by a promissory note.

- (4) "Viatical settlement broker" means an individual, partnership, corporation, or other ~~person~~~~entity~~ who or that for another and for a fee, commission, or other valuable consideration, offers or advertises the availability of viatical settlements, introduces a viator to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one (1) or more viatical settlement providers. "Viatical settlement broker" does not include an attorney, certified public accountant, or financial planner who is retained to represent the viator and whose compensation is not paid by the viatical settlement provider.
- (5) "Viatical settlement contract" means a written agreement entered into between a viatical settlement provider and a ~~viator~~~~person~~ owning a life insurance policy or who owns or is covered under a group policy insuring the life of a person ~~and the~~~~[who has a catastrophic or life-threatening illness or condition. The]~~ agreement ~~establishes~~~~[shall establish]~~ the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. A viatical settlement contract also includes a contract for a loan or other financial transaction secured primarily by an individual or group life policy, with the following exceptions:
- (a) A loan by a life insurance company in accordance with the terms of the life insurance contract; or
 - (b) A loan secured by the cash value of a policy.
- (6) "Viatical settlement provider" means an individual, partnership, corporation, or other ~~person~~~~entity~~ who or that enters into an agreement with a person owning a life insurance policy or who owns or is covered under a group policy insuring the life of a person~~[who has a catastrophic or life-threatening illness or condition]~~, under the terms of which the viatical settlement provider pays compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. Viatical settlement provider does not include:
- (a) Any bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;
 - (b) The issuer of a life insurance policy that provides accelerated benefits that accelerate in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider;~~[or]~~
 - (c) Any natural person who is not licensed in accordance with Section 2 this Act and who enters into no more than one (1) agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit; or
 - (d) A related provider trust.
- (7) "Viator" means the owner of a life insurance policy that insures the life of a person~~[who has a catastrophic or life-threatening illness or condition, or the certificate holder]~~ who enters into a viatical settlement contract~~[an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider].~~
- (8) "Independent third-party trustee" means a custodial bank that:
- (a) Carries out custodial functions for the viatical settlement provider through its trust department;
 - (b) Is audited annually by an independent certified public accountant whose audit report, together with the related financial statements, and whose report on internal controls are made available to the viatical settlement provider and the commissioner upon request;
 - (c) Maintains policies and procedures requiring that the custodied deposits are recognized as deposits to be set aside and reserved as the specific property of the viatical settlement provider, and are not subject to any creditor relationship with the custodial bank;
 - (d) Maintains blanket bond coverage relating to its custodial functions with limits equal to or exceeding those suggested by the American Bankers Association;
 - (e) Maintains capital and surplus funds equal to or exceeding twenty-five million dollars (\$25,000,000) unless it is licensed and regulated by the Commonwealth of Kentucky, in which case its capital and surplus funds shall equal or exceed ten million dollars (\$10,000,000);
 - (f) Has demonstrated sufficient experience in handling custodial accounts, and shall not include any person associated, affiliated, or under common control with a viatical settlement provider or viatical settlement broker; and
 - (g) Is licensed in good standing with the Department of Financial Institutions, or comparable federal authority.

- (9) "Related provider trust" means a trust established by a licensed viatical settlement provider for the purpose of entering into or owning viatical settlement contracts. This term shall not include an independent third-party trustee.
- (10) "Viatical settlement purchaser" means a person other than a licensee under Subtitle 15 of KRS Chapter 304, who gives consideration for a life insurance policy or an interest in a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit.

Section 2. KRS 304.15-700 is amended to read as follows:

- (1) No person may act as a viatical settlement provider or broker, or enter into or solicit a viatical settlement contract without first having obtained a license from the commissioner. All applicants for a viatical settlement broker license shall attend the required viatical broker training and pass a viatical broker examination designated by the department through administrative regulation.
- (2) The examination of contracts shall take place simultaneously with the company's approval process. Any form to be used in the solicitation of the transaction and the transaction shall be filed for prior approval with the department and shall contain a form number. Viatical settlement providers and brokers shall provide the department notice of any change in the licensee's name, residence address, principal business address, or mailing address at least thirty (30) days prior to the effective date of the change. ~~Provided that the viatical settlement provider or viatical settlement broker complies with KRS 304.15-020 and KRS 304.15-700 to 304.15-725, the provider or broker transacting business in this state prior to July 15, 1998, may continue to transact the business until the commissioner approves or disapproves the provider's or broker's application for license. The application shall be filed on forms provided by the commissioner no later than November 1, 1998.~~
- (3) ~~(2)~~ The commissioner shall promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to provide for the following:
- (a) Licensing of viatical settlement providers;
- (b) Licensing of viatical settlement brokers;
- (c) Termination ~~and the termination~~ or revocation of the license of a viatical settlement provider and a viatical settlement broker; and
- (d) Prescribing that the amount of the viatical examination fee shall be equal to the life examination fee.
- (4) Prior to issuance of a license as a viatical settlement broker or viatical settlement provider, the applicant shall file with the commissioner, and thereafter for as long as the license remains in effect shall keep in force, evidence of financial responsibility in the sum of not less than five hundred thousand dollars (\$500,000) per occurrence, and the sum of one million five hundred thousand dollars (\$1,500,000) in the aggregate, for all occurrences within one (1) year. This evidence shall be in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. The policy, bond, deposit, or combination thereof shall not be terminated without thirty (30) days' prior written notice to the licensee and the commissioner.
- (5) ~~(3)~~ No person shall use any viatical settlement contract in this Commonwealth unless it has been filed with and approved by the commissioner. At the expiration of sixty (60) days from the date the filing is complete, the form filed shall be deemed approved unless the commissioner has by order given prior approval or disapproval. Approval of a form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than thirty (30) days the time period in which he or she may approve or disapprove any form. The commissioner shall give notice to the licensee of the extension before expiration of the initial sixty (60) day period. At the expiration of the extended period, and in the absence of the prior approval or disapproval, the form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any approval. ~~Any viatical settlement contract form filed with the commissioner shall be deemed approved if it has not been disapproved within sixty (60) days of filing.~~ The commissioner shall disapprove a viatical settlement contract form if, in the determination of the commissioner, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise are misleading or unfair to the policyowner. Upon notice and hearing the commissioner shall withdraw approval of any contract later determined to be unreasonable, misleading, unfair, or contrary to the interest of the public.
- (6) A licensed viatical settlement provider shall not use any person to perform the functions of a viatical settlement broker as defined in Section 1 of this Act unless the person holds a current and valid license as a viatical settlement broker. Individuals employed by viatical settlement providers shall not engage in viatical settlement broker activities unless they hold a current and valid license. A licensed viatical settlement broker shall not use any person to perform the functions of a viatical settlement provider as defined in Section 1 of this Act unless the person holds a current and valid license as a viatical settlement provider. Individuals employed by viatical settlement brokers shall not engage in viatical settlement broker activities unless they hold a current valid license.
- (7) If any employee of a licensee violates any provision of Sections 1 to 12 of this Act, the department may take disciplinary action against the employer licensee.

- (8) When a viatical settlement provider elects to use a related provider trust in accordance with Section 10 of this Act, the viatical settlement provider shall file notice of its intention to use that trust with the department with a copy of the trust agreement. Any change in the trust agreement shall be filed with the commissioner prior to its effect.
- (9) Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker represents the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.
- (10) Any additional death benefit payment on a life insurance policy that is the subject of a viatical settlement contract with a double or additional indemnity for accidental death shall be payable to the following:
 - (a) The beneficiary last named by the policy owner prior to entering into the viatical settlement contract; or
 - (b) To the estate of the viator in the absence of a beneficiary.

Section 3. KRS 304.15-705 is amended to read as follows:

- (1) The commissioner may, when the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interest of the public. The reasonable expenses incurred in conducting any examination shall be paid by the licensee or applicant.
- (2) Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.
- (3) Records of all transactions of viatical settlement contracts shall be maintained by the licensee for five (5) years after the death of the viator, and shall be available to the commissioner for inspection during reasonable business hours. All other business records shall be kept for a period of five (5) years following creation of records, or the completion of the purpose for which records were created, whichever shall occur last.
- (4) Upon issuance of a viatical settlement provider or broker license, the licensee shall be deemed to have appointed the Kentucky Secretary of State as the licensee's attorney to receive service of process issued against the licensee in this state. The appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the licensee, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the licensee, or liabilities or duties arising therefrom. KRS 304.3-230(5) to (8) shall apply to the service of process.

Section 4. KRS 304.15-715 is amended to read as follows:

- (1) A viatical settlement provider entering into a viatical settlement contract with any person~~[who has a catastrophic or life-threatening illness or condition]~~ shall first obtain:
 - (a) A written statement from a licensed attending physician that the person is of sound mind and under no constraint or undue influence; and
 - (b) A witnessed document in which the person consents to the viatical settlement contract, acknowledges any~~[the]~~ catastrophic or life-threatening illness, represents that he or she has a full and complete understanding of the viatical settlement contract and a full and complete understanding of the benefits of the life insurance policy, releases his or her medical records, and acknowledges that he or she has entered into the viatical settlement contract freely and voluntarily.
- (2) All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.
- (3) All viatical settlement contracts entered into in this state shall contain an unconditional refund provision that provides for a refund within at least thirty (30) days from the date of the contract or fifteen (15) days from the receipt of the viatical settlement proceeds, whichever is less.
- (4) ~~[Immediately upon receipt from the insurer of the effect of the transfer of ownership of the insurance policy, the viatical settlement provider shall pay the proceeds of the settlement to an account in a custodian bank that meets the qualifications outlined in 806 KAR 7:090 Section 3.]~~ The independent third-party trustee~~[custodian]~~ shall~~[be required to]~~ transfer the proceeds that are due to the viator within two (2) business days upon receipt of acknowledgment of the transfer of ownership from the insurer.
- (5) Failure to tender the viatical settlement by the date disclosed to the viator renders the contract null and void.
- (6) All licensed viatical settlement providers transacting business in Kentucky ~~shall~~must have the insured's~~[viator's]~~ medical condition reviewed by a qualified third-party physician or physician firm. Qualification shall be met with the approval of Standard and Poors, Moody's, or any other reviewing entity approved by the commissioner.
- (7) When the viatical settlement contract is executed, the viatical settlement provider shall provide the viator with a separate form from which the viator may choose one of the following options:
 - (a) That the viator be provided written notice of the identity of the new owner upon any future transfer of

ownership in the life insurance policy being viated; or

(b) To forgo written notice of the identity of any future purchaser of, or investor in, the life insurance policy being viated.

(8) Within ten (10) days of the expiration of the rescission period, the viatical settlement provider shall send written notification to the insurer that the policy has become the subject of a viatical transaction.

SECTION 5. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) When the department finds that a violation presents an immediate danger to the public health, safety, or welfare that requires an immediate final order, it shall issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent.

(2) The department may impose and collect an administrative fine not to exceed ten thousand dollars (\$10,000) for each violation of a cease and desist order issued in accordance with this section.

SECTION 6. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any person:

(1) To knowingly enter into a viatical settlement contract when the subject life insurance policy was obtained by means of a false, deceptive, or misleading application for the life insurance policy;

(2) In the solicitation or purchase of a viatical settlement:

(a) To employ a device, scheme, or artifice to defraud;

(b) To obtain money or property by means of an untrue statement of a material fact, or by any omission to state a material fact;

(c) To engage in any transaction, practice, or course of business that operates or would operate as a fraud or deceit upon a person; and

(d) To misrepresent that the viatical provider, viatical broker, or other licensee has been guaranteed, sponsored, recommended, or approved by the state, or by any local, state, or federal agency or officer thereof.

This subsection shall not prohibit a statement that the person is licensed, if that statement is true and the effect of the statement is not misrepresented;

(3) To act as a viatical settlement broker if the person is acting as a viatical settlement provider in the same viatical settlement contract;

(4) To act as the viatical settlement broker or provider regarding a life insurance policy if the broker or provider is the life insurance agent that produced or receives commissions from the policy being viated; and

(5) If the person is licensed as a viatical settlement provider or viatical settlement broker, to pay any compensation or provide anything of value to an insured's physician, attorney, accountant, or any other person who provides medical, legal, or financial advice to the insured as a finder's or referral fee.

SECTION 7. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A viatical settlement transaction shall be completed through the independent third-party trustee. Within three (3) business days of receipt of a signed viatical settlement contract from the viator, the viatical settlement provider shall pay the proceeds due to the viator, and any commission due the viatical settlement broker, to an escrow or trust account managed by the independent third-party trustee pending acknowledgment of the insurer of the transfer of ownership of the policy. The independent third-party trustee shall provide the viator written proof of deposit within three (3) days of deposit of the proceeds. An advance or partial payment of the proceeds from the viatical settlement provider to the viator under the settlement contract shall not be used to effect transfer of the subject policy. Partial payment shall be made at the sole discretion and risk of the viatical settlement provider.

(2) Upon receipt of all viatical settlement contract proceeds, the independent third-party trustee shall hold the proceeds for disbursement in accordance with Sections 1 to 12 of this Act and the viatical settlement contract. In no event shall the viatical settlement provider or independent third-party trustee pay any commission or fee to the viatical settlement broker prior to the end of the rescission period.

(3) The viatical settlement contract is rescinded if the insured dies during the rescission period. If the independent third-party trustee receives information that the insured died during the rescission period and the trustee still holds the funds, it shall verify the death and then refund the proceeds to the viatical settlement provider. If the proceeds have been disbursed by the independent third-party trustee and the insured died during the rescission period, the viatical settlement provider shall pay the viator the difference between the death benefit and the amount of the proceeds disbursed to the viator. No commission or fee shall be due the viatical settlement broker if the insured dies during the rescission period.

(4) A viatical settlement provider shall not negotiate or enter into a viatical settlement contract with a viator if the policy contains an accelerated benefits provision allowing benefits to be paid for a period in advance of the expected death

that is equal to or exceeds the time period available under the viatical settlement contract, and at an amount that is equal to or exceeds the amount available under the viatical settlement contract unless the issuer of the policy, in writing, denies, declines, or refuses to provide the accelerated benefits. If the insurer does not respond to a request to effectuate an accelerated benefits provision sent by certified mail within thirty (30) days after receiving the request, the insurer shall be deemed to have denied, declined, or refused to provide the accelerated benefits.

SECTION 8. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) In addition to the penalties and other enforcement provisions of Sections 1 to 14 of this Act, if any person violates any provision of Sections 1 to 12 of this Act, or any administrative regulations promulgated under Sections 1 to 12 of this Act, the department may seek an injunction in Franklin Circuit Court or in the Circuit Court of the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the department determines necessary to restrain the person from committing the violation.
- (2) Any person damaged by the acts of a person in violation of any provision of Sections 1 to 12 of this Act may bring a civil action against the person in the Circuit Court of the county in which the alleged violator resides, or has a principal place of business, or in the county where the alleged violation occurred.

Section 9. KRS 304.15-710 is amended to read as follows:

A viatical settlement provider shall provide the viator a copy of the department's consumer guide relating to viaticals and disclose the following information to the viator no later than the date that the viatical settlement contract is signed by all parties:

- (1) That possible alternatives to viatical settlement contracts may exist for persons with catastrophic or life-threatening illnesses, including, but not limited to, accelerated benefits offered by the issuer of the life insurance policy;
- (2) That some or all of the proceeds of the viatical settlement may be taxable, and that assistance should be sought from a personal tax advisor;
- (3) That the viatical settlement could be subject to the claims of creditors;
- (4) That receipt of a viatical settlement may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate agencies;
- (5) That the policyowner has a right to rescind a viatical settlement contract within thirty (30) days of the date it is executed by all parties or within fifteen (15) days of the receipt of the viatical settlement proceeds by the viator, whichever is less, that the contract is rescinded if the insured dies within the rescission period;~~and~~
- (6) That viaticating a joint policy or policy with family riders or coverage of any life other than the viator may cause a loss of coverage on the other lives and that the viator should consult with an insurance advisor;
- (7) That the viatical settlement provider shall deposit the proceeds due the viator and any commissions due the viatical settlement broker with an independent third-party trustee within three (3) days of receipt of the contract signed by the viator, and that the independent third-party trustee shall mail proof of deposit within three (3) days of deposit, and that the funds will be available to the viator within two (2) business days of notification from the insurer of the effect of the transfer of ownership;
- (8) The name, address, and telephone number of the independent third-party trustee and the fact that the viator may inspect and receive copies of the relevant trust, or escrow agreements, or other documents; and
- (9) The amount and method of calculation of any fee, commission, or compensation to be paid the viatical settlement broker.

SECTION 10. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A related provider trust shall be subject to all provisions of Sections 1 to 14 of this Act that apply to the viatical settlement provider, and that establish the related provider trust, except subsection (1) of Section 2 of this Act shall not apply to the related provider trust. The viatical settlement provider is liable and responsible for the performance of all obligations of the related trust and compliance of the trust with all provisions of Sections 1 to 14 of this Act.

Section 11. KRS 304.42-190 is amended to read as follows:

No person, including an insurer, agent, ~~or~~ affiliate of an insurer, viatical settlement provider, or viatical settlement broker shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the Insurance Guaranty Association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Kentucky Life and Health Insurance Guaranty Association Act. This section shall not apply to the Kentucky Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

SECTION 12. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) When a license issued under Section 2 of this Act is suspended or revoked, the licensee, if the commissioner directs, shall proceed, immediately following the effective date of the suspension or revocation to conclude the affairs it is transacting under its license. The licensee shall not solicit, negotiate, advertise, or effectuate new contracts. The department shall retain jurisdiction over the licensee and trust until all viatical contracts have been fulfilled or canceled or have expired.
- (2) During the suspension or revocation period in which the licensee is concluding existing contracts, the licensee shall continue to comply with Sections 1 to 14 of this Act as if the license were in force.

SECTION 13. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provisions of Sections 1 to 12 of this Act shall be subject to civil fines by the commissioner in an amount not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000). Each violation shall constitute a separate offense.

SECTION 14. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The department shall refer violations to the Division of Insurance Fraud Investigation for further investigation, and, if appropriate, the Division of Insurance Fraud Investigation shall proceed as set forth in KRS 304.47-050(5).

HB 595, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A "specialty credit insurance producer" is a firm, partnership, corporation, or limited liability company licensed by the commissioner to solicit applications or enrollments for group or individual credit life, credit health, credit personal property, and credit unemployment insurance contracts on behalf of an insurer; and if authorized to do so by the insurer, to effectuate them.

SECTION 2. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner may issue to an applicant qualified under this section a license to act as a specialty credit insurance producer for the following lines of insurance only:
 - (a) Credit life;
 - (b) Credit health;
 - (c) Credit personal property;
 - (d) Credit involuntary unemployment; and
 - (e) Any other credit-related insurance approved by the commissioner.
- (2) For a specialty license to be issued under this section, the applicant shall submit to the commissioner all of the following:
 - (a) A written application, signed by the applicant, on a form prescribed by the commissioner, that contains the information prescribed by the commissioner, including a list of physical locations where activities authorized by the specialty license will be conducted; and
 - (b) The applicable fee set forth in KRS 304.4-010.
- (3) Except as specifically provided in this section, a licensee under this section shall be exempt from all provisions of this subtitle.
- (4) A specialty license issued under this section authorizes an employee or representative of the license holder to participate in any aspect of selling the types of insurance specified in this section, without being licensed, registered, or otherwise individually identified, if all of the following are true:
 - (a) The employee or representative operates with permission from and under the supervision of the license holder;
 - (b) The employee or representative has been instructed with respect to the disclosures that may be required to be made to consumers in connection with the sale of credit insurance; and
 - (c) The employee or representative is not primarily compensated based on the amount of insurance sold by the employee or representative.
- (5) A specialty license holder may not in any manner advertise, represent, or otherwise hold out the license holder or any employee or representative of the license holder as a licensed insurance agent under another section of this subtitle, unless the entity or individual actually holds the applicable license.
- (6) If a specialty credit insurance producer violates this chapter, the commissioner may, after notice and the opportunity for a hearing, impose any penalties the commissioner considers necessary or appropriate to implement the purposes of

this section, including but not limited to placing the license holder on probation, assessing an administrative penalty against the license holder, reprimanding the license holder, suspending the transaction of insurance at specific locations where a violation of this section has occurred, or any combination of penalties.

- (7) An examination is not required for issuance of a license under this section and continuing education requirements do not apply to a license issued under this section. An applicant for a license under this section shall not be required to license any of its officers, directors, or employees individually, nor shall an insurer's appointment be required as a prerequisite to obtaining a specialty credit insurance license.
- (8) A licensee under this section may receive commissions or other compensation for services rendered in connection with the sale of credit insurance under this section.

The Committee Substitute No. 1 to HB 595 is as follows:

HB 595, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

- (1) A "specialty credit insurance producer" is an individual or business entity licensed by the commissioner to solicit applications or enrollments for group or individual credit life, credit health, credit personal property, and credit unemployment insurance contracts on behalf of an insurer; and if authorized to do so by the insurer, to effectuate them.
- (2) A "managing employee" is a salaried full-time employee of the licensed business entity that is responsible for the supervision of the other employees engaged in the placement of insurance under this section.
- (3) A license issued under this section shall permit credit insurance sales by the license holder, its subsidiaries, and affiliates.

SECTION 2. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner may issue to an applicant qualified under this section a license to act as a specialty credit insurance producer for the following lines of insurance only:
 - (a) Credit life;
 - (b) Credit health;
 - (c) Credit personal property;
 - (d) Credit involuntary unemployment; and
 - (e) Any other credit-related insurance approved by the commissioner as promulgated by administrative regulation.
- (2) For a specialty license to be issued under this section, the applicant shall submit to the commissioner all of the following:
 - (a) A written application, signed by the applicant, on a form prescribed by the commissioner, that contains the information prescribed by the commissioner, including a list of physical locations where activities authorized by the specialty license will be conducted;
 - (b) A certification by an insurer authorized to do business in this state, signed and affirmed as true under penalty of perjury by an officer stating that:
 - 1. The insurer has satisfied itself that the named applicant is trustworthy and competent to act as the insurer's agent; and
 - 2. The insurer has appointed the managing employee and business entity applicants to act as agents for the type of insurance specified;
 - (c) The applicable fee set forth in KRS 304.4-010.
- (3) A specialty license issued under this section authorizes an employee or representative of the license holder to participate in any aspect of selling the types of insurance specified in this section, without being licensed, registered, or otherwise individually identified, if all of the following are true:
 - (a) The employee or representative operates with permission from and under the supervision of a managing employee license holder;
 - (b) The employee or representative has been instructed by the managing employee license holder with respect to the disclosures that may be required to be made to consumers in connection with the sale of credit insurance; and
 - (c) The employee or representative is not primarily compensated based on the amount of insurance sold by the employee or representative.

- (4) A specialty license holder may not in any manner advertise, represent, or otherwise hold out the license holder or any employee or representative of the license holder as a licensed insurance agent under another section of this subtitle, unless the entity or individual actually holds the applicable license.
- (5) Insurance shall not be transacted under this section at any location unless the sale of insurance includes the consumer protection disclosures set forth in Regulation Z of the Federal Truth in Lending Act, 15 U.S.C. sec. 501 et seq.
- (6) If a specialty credit insurance producer violates this chapter, the commissioner may, after notice and the opportunity for a hearing, impose any penalties set forth in KRS 304.2-360, 304.9-440, and 304.99-020.
- (7) An examination is not required for issuance of a license under this section and continuing education requirements do not apply to a license issued under this section. A business entity shall continuously maintain at least one (1) managing employee licensed under this section, but shall not be required to license any of its officers, directors, or other employees individually.
- (8) A licensee under this section may receive commissions or other compensation for services rendered in connection with the sale of credit insurance under this section.
- (9) Licenses shall be renewed biennially as set forth in KRS 304.9-260 and 304.9-270.
- (10) The commissioner shall establish revenue-neutral license, location, and renewal fees by administration regulation in an amount sufficient to maintain the department's revenues generated by credit-limited license fees for the fiscal year ending June, 2000, indexed annually for inflation.

Calendar

HB 507, HB 25, HB 136, HCR 35, HCR 36, HCR 37, HB 486, HB 505, HB 518, HB 398, HB 482, HB 483, HJR 9, HJR 15, HJR 72, HJR 76, HB 499, HB 503, HB 407, HJR 70, and SCR 16 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Worthington moved that the rules be suspended to grant floor privileges to special guests and to act upon Legislative Citations. Agreed.

Representative Worthington moved that the rules be suspended to allow him to address the House from the Clerk's Desk and to act upon Citations. Agreed.

Representative Worthington moved the adoption of the following **Legislative Citation No. 57.**

The Members of the House of Representatives of the Commonwealth of Kentucky hereby recognize and honor Ronnie and Diane French the proud parents of Miss America 2000, and do heartily express deep gratitude to them for the contributions each made to this extraordinary young woman as she shaped her life. Ronnie French, who was injured in service to his country as a Marine in Vietnam, and who returned home to raise a family and further serve his community, is recognized as the man who so deeply touched the heart of his daughter, with his courage and his generosity of spirit, that his experiences have become the driving force behind her platform, the platform which is an eloquent plea to this nation to honor the great sacrifices made by the military veterans as they served to preserve our precious freedoms. If Ronnie French represents Heather Renee French's heart, her mother, Diane French, a talented singer, lent her cherished daughter both beauty and voice. As a woman devoted to the cultural wealth of the citizens of America, her influence and encouragement fostered her daughter's desire to use her remarkable talents in order to accomplish great ends. Inasmuch as Ronnie and Diane French have created a home that was the fertile ground from which Heather Renee French, her sister, Gretchen, and her younger brother, Jamison, could grow strong and true, the members of this august body join Representative Pete Worthington in honoring them and in extending warmest wishes as they join us today to pay tribute to their beloved daughter, Heather Renee French, Miss America 2000. Done in Frankfort, this tenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 57 was adopted without objection. (See February 10, 2000 roll call to show co-sponsors on **Legislative Citation No. 57-Appendix**)

Representative Worthington moved the adoption of the following **Legislative Citation No. 53.**

The Members of the House of Representatives of the Commonwealth of Kentucky do hereby adjourn this memorable legislative day in honor of Heather Renee French our own Miss America 2000, and do heartily commend this extraordinary young woman for her remarkable accomplishments as Miss Kentucky, paying ardent tribute to her as the first Miss America from the great and proud Commonwealth of Kentucky. This intelligent and compassionate young woman, who has also been named as the Kentuckian of the Year by Kentucky Monthly magazine, has led this state into the new millennium in grand style and for that alone we would express our deepest appreciation. That she possesses both style and substance is apparent by her achievements and the well-deserved honors accorded to her. Her consummate professionalism has had a lasting impact on the Miss America

organization. Working passionately to remedy the plight of homeless veterans, she has served to inspire this nation into doing what is right for those who courageously served America. Inasmuch as she represents her family, community, Kentucky and this great nation with honor and integrity, and has brought gracious charm and endearing compassion to all she has encountered, therefore, the members of this prestigious body are pleased to join with Representative Pete Worthington in applauding the stellar achievements of Heather Renee French and in extending to her best wishes as she continues to shine forth as a model of laudable citizenship of whom every Kentuckian may be proud. Done in Frankfort, this tenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 53 was adopted without objection. (See February 10, 2000 roll call to show co-sponsors on **Legislative Citation No. 53-Appendix**)

Representative Worthington introduced special guest Heather French, Miss America.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 25** and **SB 26** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:45 p.m.)

Representative Stumbo moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Siler moved the adoption of the following **Legislative Citation No. 56**.

The House of Representatives of the Commonwealth of Kentucky hereby honors Dr. John T. Sullivan upon the occasion of a luncheon at Cumberland College honoring this distinguished gentleman for his many contributions to this exceptional institution and to the field of journalism for which he will be presented with the honorary doctor of Humane Letters by the Board of Trustees. A graduate of Eastern Kentucky University, Dr. Sullivan is a veteran of the U.S. Air Force where he was a disc jockey before returning to Kentucky to attend college. After graduating, he managed WEKU-FM, Richmond, Kentucky, and soon moved to Pueblo, Colorado, where he made his motion picture debut, appearing in the films, "Black Beauty" and "Centennial." Returning to Kentucky in 1980, this esteemed citizen began hosting the television show, "Town and Country," and in 1982, became the feature reporter of "Sullivan's Travels," on WKYT-TV, Channel 27 News, where he is still currently working. Over the span of his remarkable career, Dr. Sullivan has interviewed over 25,000 people, including the former President Ronald Reagan, Tommy Smothers of the Smothers Brothers and Alex Haley, author of Roots. Dr. John T. Sullivan, who is also a member of the Cumberland College Communications Council, has labored with great diligence and honor over the course of his tremendous career and, throughout, has offered tireless support to Cumberland College for which he is extended the sincerest gratitude of its faculty, staff, and students. Inasmuch as this highly-lauded citizen of Kentucky has contributed so greatly to his field by virtue of his consummate ambition and professionalism, the members of this august body are honored to join Representative Charles L. Siler in applauding the achievements of Dr. John T. Sullivan and in extending to him best wishes for the future. Done in Frankfort, this tenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 56 was adopted without objection.

Representative Coleman moved the adoption of the following **Legislative Citation No. 54**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and applauds Cletus Smith and SAR-Dogs Shatzie and Brudder for the phenomenal contributions each has made to the Search & Rescue Services of the Commonwealth of Kentucky. As one of the pioneers of the use of canines in deep water rescue and recovery missions in Kentucky, Cletus Smith played an instrumental role in the founding of the Kentucky Search Dog Association. His dogs, Shatzie and Brudder, served as the first canines to be used in these missions. Shatzie, a German Shepherd, holds the distinction of being both the first dog in Kentucky to locate a drowning victim and the first to locate a drowning victim in over 100 feet of water. Brudder, was successful in locating over 100 lost and missing persons during his career, finding one victim within a proximity of 15 feet in over 300 feet of water. This feat is thought to be a world's record. As a result of the success of Cletus Smith, Shatzie and Brudder, this state now has trained search and rescue teams who are knowledgeable and highly effective when utilizing dogs in deep water rescue and recovery missions. Therefore, the members of this distinguished body are delighted to join Representative Jack Coleman in affording highest regards to Cletus Smith for his monumental efforts in this worthwhile endeavor and in honoring the memories of both Shatzie and Brudder for the unsurpassed dedication and commitment to protecting the lives of the citizens of this Commonwealth. Done in Frankfort, this tenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 54 was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 55**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the most recent graduates of Leadership Montgomery County an outstanding program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as Leadership Montgomery County is a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Adrian K. Arnold in commending this exemplary program for its noteworthy efforts and in extending best wishes for its continued success. Done in Frankfort, this tenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 55 was adopted without objection.

Orders of the Day

HB 295, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 295**. Agreed.

Representative Weaver moved that **HB 295**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 10, 2000 roll call on **HB 295** - Appendix.)

HB 295, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 295**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 12, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of Floor Amendment No. 11 to **HB 12**.

Representative Treesh moved the adoption of Floor Amendment No. 12 to Floor Amendment No. 11 to **HB 12**.

Representative Ford inquired if Floor Amendment No. 11 to **HB 12** would have to be adopted first.

The Speaker ruled that Floor Amendment No. 11 to **HB 12** did not have to be adopted first.

On the roll call the vote was: **Yeas 28, Nays 66**. (See February 10, 2000 roll call on the motion to adopt Floor Amendment No. 12 to Floor Amendment No. 11 to **HB 12**-Appendix)

The motion to adopt Floor Amendment No. 12 to Floor Amendment No. 11 to **HB 12** was defeated.

Representative Jenkins moved the adoption of Floor Amendment No. 11 to **HB 12**.

Representative Cave inquired if fiscal impact and local mandate statements on **HB 12** were required.

The Speaker ruled that fiscal impact and local mandate statements were required on **HB 12**.

Representative Cave moved that fiscal impact and local mandate statements as provided under House Rule 52, be prepared to **HB 12**.

On the roll call the vote was: **Yeas 37, Nays 54**. (See February 10, 2000 roll call on the motion that fiscal impact and local mandate statements to **HB 12** be prepared-Appendix)

The motion that fiscal impact and local mandate statements to **HB 12** be prepared was defeated.

Representative Jenkins moved the adoption of Floor Amendment No. 11 to **HB 12**.

On the roll call the vote was: **Yeas 83, Nays 10**. (See February 10, 2000 roll call on the adoption of Floor Amendment No. 11 to **HB 12**-Appendix)

Floor Amendment No. 11 to **HB 12** was adopted.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 98, HB 129, HB 160, HB 164, HB 214, HB 215, HB 232, HB 242, HB 250, HB 266, HB 312, and HB 357** have been examined and found correctly enrolled. Said Bills were read at length, compared

and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:40 p.m.)

Orders of the Day (Continued)

Representative Jenkins moved that **HB 12**, as amended, be passed.

On the roll call the vote was: **Yeas 72, Nays 21**. (See February 10, 2000 roll call on **HB 12** - Appendix.)

HB 12, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 12**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved that **HB 377** be passed.

Representative Bruce moved the adoption of Committee Amendment No. 1 to **HB 377**. Agreed.

Representative Bruce moved that **HB 377**, as amended, be passed.

Representative Bather moved the adoption of Floor Amendment No. 2 to **HB 377**.

The Speaker Pro-Tem presiding.

The Speaker resumed the Chair.

On the roll call the vote was: **Yeas 14, Nays 74**. (See February 10, 2000 roll call on the adoption of Floor Amendment No. 2 to **HB 377**-Appendix)

The motion that Floor Amendment No. 2 to **HB 377** be adopted was defeated.

Representative Wayne cited Rule 57 and abstained from voting on Floor Amendment No. 2 to **HB 377**.

Representative Wilkey moved the adoption of Floor Amendment No. 5 to **HB 377**.

On the roll call the vote was: **Yeas 36, Nays 42**. (See February 10, 2000 roll call on the adoption of Floor Amendment No. 5 to **HB 377**-Appendix)

The motion that Floor Amendment No. 5 to **HB 377** be adopted was defeated.

Representative Anderson moved that **HB 377**, as amended, be laid on the Clerk's Desk. There was no second to the motion.

Representative Crall moved that **HB 377** as amended, be passed.

On the roll call the vote was: **Yeas 74, Nays 18**. (See February 10, 2000 roll call on **HB 377**, - Appendix.)

HB 377, as amended, was passed and the title agreed to.

Representatives Wayne, Stumbo, and Stacy cited Rule 57 and abstained from voting on **HB 377**.

Representative Lindsey inquired if ownership of stock in a bank would constitute a conflict under House Rule 57.

The Speaker ruled that if you only own stock in a bank you do not have a conflict.

Representative Bruce moved that the vote by which **HB 377**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of changing a vote. Agreed.

Representative Stacy moved that his vote on Floor Amendment No. 5 to **HB 377** be changed from "yea" to abstain. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 612** be reassigned to the Committee on Appropriations and Revenue.

Representative Stumbo moved that **HB 618** be reassigned to the Committee on Licensing and Occupations.

Representative Stumbo moved that **HB 293** be reassigned to the Committee on Appropriations and Revenue.

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that the when the House adjourns it does so until 4:00 p.m., February 14, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 650, by Representative Kerr: AN ACT changing the classification of the City of Independence, in Kenton County.

HB 651, by Representative Kerr: AN ACT relating to the approval of federally-funded construction projects.

HB 652, by Representative Kerr: AN ACT relating to hunting.

HB 653, by Representative Kerr: AN ACT relating to motor vehicles left on state highways.

HB 654, by Representative Baugh: AN ACT relating to crimes and punishments.

HB 655, by Representative Baugh: AN ACT relating to crimes and punishments.

HB 656, by Representative Stein: AN ACT relating to the levy of a transient room tax by urban county governments.

HB 657, by Representatives Anderson and Alexander: AN ACT relating to advance directives.

HB 658, by Representatives Branham and Childers: AN ACT relating to local government development, making an appropriation therefor, and declaring an emergency.

HB 659, by Representatives Branham and Childers: AN ACT relating to retirement, making an appropriation therefor, and declaring an emergency.

HB 660, by Representatives Wilkey and Nunn: AN ACT relating to sales tax.

HB 661, by Representative Jenkins: AN ACT relating to health care.

HB 662, by Representatives Gooch, Ausmus, Tapp, Cherry, J. Turner, Stewart, Alexander, J. Arnold, A. Arnold, Riner, Buckingham, Ballard, Thomas, and Bratcher: AN ACT relating to insurance.

HB 663, by Representatives Haydon, C. Belcher, Palumbo, and Westrom: AN ACT relating to small and farm wineries.

HB 664, by Representative McKee: AN ACT relating to sales and use tax.

HJR 99, by Representative Heleringer: A JOINT RESOLUTION establishing a Civil War Battlefield Task Force.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 619, HB 628**

Natural Resources and Environment: **HB 573, HB 616**

Labor and Industry: **HB 560, HB 565, HB 606, HB 613**

Health and Welfare: **HB 421, HB 564**

Report of Committees (Continued)

The Committee on Agricultural and Small Business reported **HB 203, HB 386**, with Committee Substitute attached thereto, and **HB 501**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 203, AN ACT relating to agricultural districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.850 is amended to read as follows:

- (1) This section shall be known as "the Agricultural District and Conservation Act."
- (2) It is the policy of the state to conserve, protect and to encourage development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this state to conserve and protect the agricultural land base as a valuable natural resource which is both fragile and finite. The pressure imposed by urban expansion, transportation systems, water impoundments, surface mining of mineral resources, utility rights-of-way and industrial development has continually reduced the land resource base necessary to sufficiently produce food and fiber for our future needs. It is the purpose of this section to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an important resource.
- (3) The local governing administrative body for an agricultural district shall be the conservation district board of supervisors. The Soil and Water Conservation Commission shall be responsible for statewide administration of the agricultural district program and shall have sole authority to certify or deny agricultural district petitions. The commission may apply for assistance and funds from the Federal Farmland Protection Act of 1981 (PL 97-377) which may be available for the development of the agricultural district program and may accept easements as provided in KRS 65.410 to 65.480.
- (4) Any owner or owners of land may submit a petition to the local conservation district board of supervisors requesting the creation of an agricultural district within the county. The petition shall include a description of the proposed area, description of each land parcel, location of the proposed boundaries, petitioners' names and addresses, adjacent landowners' names and addresses, and other pertinent information as required in the petition application. The boundary of an agricultural district shall be contiguous. No land shall be included in an agricultural district without the consent of the owner.
- (5) Upon receipt of a petition, the local conservation district board of supervisors shall notify the fiscal court and any local or regional planning or zoning body, if any, by sending a copy of the petition and accompanying materials to that body.
- (6) The following factors shall be considered by the local conservation district board of supervisors and the Soil and Water Conservation Commission when considering the formation of any agricultural district:
 - (a) The capability of the land to support agricultural production, as indicated by: soil, climate, topography or other natural factors;
 - (b) The viability of active farmlands, as indicated by: markets for farm products, extent and nature of farm improvements, present status of farming, anticipated trends in agricultural economic conditions and technology;
 - (c) That the proposed agricultural district meets the minimum size limit of two hundred fifty (250) contiguous acres, unless the local conservation district board and the Soil and Water Conservation Commission allow fewer than two hundred fifty (250) contiguous acres if the proposed area meets a minimum annual production performance established by the district board and approved by the commission;
 - (d) County development patterns and needs and the location of the district in relation to any urban development boundaries within the county;
 - (e) Any matter which may be relevant to evaluate the petition; and
 - (f) Whether an application is from more than one (1) farm owner, in which case a preference shall be given to the application.
- (7) The local soil and water conservation district board of supervisors shall review the petition application and submit a recommendation to the Soil and Water Commission within sixty (60) days of receipt. The local conservation district recommendation shall be submitted to the commission in the form of approval, approval with modifications, or denial of the petition accompanied by justification for such a denial.
- (8) The Soil and Water Conservation Commission shall review the recommendation of the district board of supervisors and certify or deny the agricultural district's petition within sixty (60) days of receipt.
- (9) Upon the approval of a petition by the Soil and Water Conservation Commission, the commission shall notify the area development district in which the agricultural district will lie, the local county clerk, and the secretary of the Governor's Cabinet.
- (10) Land within the boundary of an agricultural district shall not be annexed.
- (11) **The owners of land within the boundary of an agricultural district shall be exempt under Section 2 of this Act from any assessment authorized for the extension of water service lines until the land is removed from the district and developed for nonagricultural use.** Any member, or any successor heir of the member, of an agricultural district may withdraw from the district upon notifying the local conservation district board of supervisors in writing.
- (12) It shall be the policy of all state agencies to support the formation of agricultural districts as a means of preserving Kentucky's farmlands and to mitigate the impact of their present and future plans and programs upon the continued

agricultural use of land within an agricultural district.

- (13) Agricultural districts shall be comprised only of agricultural land as defined in KRS 132.010.
- (14) An agricultural district shall be established for five (5) years with a review to be made by the local soil and water conservation district board of supervisors at the end of the five-year period and every five (5) years thereafter. Each owner of land shall agree to remain in the district for a five (5) year period, which is renewable at the end of the five (5) years. However, the board shall make a review any time upon the written request of a local government which demonstrates that the review is necessary in order to consider development needs of the local government. The board shall consider whether the continued existence of the district is justified, any adjustments which may be necessary due to urban or county development, and other factors the board finds relevant. The board shall revise the district as necessary based on the review and subject to approval of the State Soil and Water Conservation Commission. Before the state commission takes final action, all interested parties shall be given the opportunity to request the state commission to amend or overturn the local board's decision.
- (15) The withdrawal of a member from a district reducing the remaining acreage of agricultural district land to less than two hundred fifty (250) acres or resulting in the remaining land being noncontiguous shall not cause the decertification of the district.
- (16) Any member of an agricultural district who has received a summons of condemnation proceedings being instituted concerning the member's land located in the district may request the local soil and water conservation district board of supervisors to hold a public hearing on the proposed taking of land. However a hearing under this section shall not be held if the petitioner in the condemnation proceeding is a utility as defined in KRS 278.010(3) and obtained a certificate of convenience and necessity as required by KRS 278.020(1).
- (17) (a) The board shall notify the local property valuation administrator of the farms which belong to an agricultural district and whenever a farm is withdrawn from a district. The board shall also inform all members of a district of the right to have their land assessed by the local property valuation administrator at the land's agricultural use value and shall offer advice and assistance on obtaining such an assessment.
- (b) The board shall also notify the local property valuation administrator whenever a farm is released or withdrawn from an agricultural district.
- (18) The board may allow an amendment to an existing certified agricultural district if approved by the commission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 74 IS CREATED TO READ AS FOLLOWS:

- (1) When a water district extends its water lines within its district or extends its water lines under KRS 74.110 beyond the district's territorial limits, and the extension would benefit land within an agricultural district created under Section 1 of this Act, the assessment against the land within the agricultural district for the cost of the extension shall be deferred. The assessment shall become payable when the land is removed, in part or in its entirety, from the agricultural district and developed for nonagricultural use. If only part of the land is removed from the agricultural district, the deferred assessment shall be prorated and paid only on the portion of the land removed. The land remaining in the district shall continue to benefit from the deferred assessment.
- (2) The owner of land for which the assessment of costs for a water line extension has been deferred shall pay for any connection to provide water service from the water line extension to the land benefited by the deferred assessment.

HB 386, AN ACT relating to farm milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.775 is amended to read as follows:

As used in KRS 260.775 to 260.845, unless the context requires otherwise:

- (1) "Board" means the Kentucky Milk Handlers Advisory Board~~["Buyer" shall include any person, partnership, corporation, association, organization, company, firm, bargaining agent, receiving station, milk plant, or agent thereof who receives milk or cream from producers and pays the producers for it on basis of volume, or weight, and test, except that it does not include persons who buy milk or cream for their own consumption];~~
- (2) "Buy[er]" means~~["buying," or "bought" shall mean]~~ the receiving of milk~~[or cream]~~ from producers or their agents and paying for the milk~~[it]~~ on the basis of volume and test, or weight and test;
- (3) "Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his or her designee~~["Milk tester" shall include any person who tests milk or cream, bought by buyers from producers, to determine the constituents or quality of such milk or cream and uses, or submits for use, these tests in determining the price paid for it];~~
- (4) "Handler" means any person who receives, bargains, brokers, or issues payment for or purchases milk from Kentucky permitted producers or the permitted producers agents~~["Sampler weigher" shall include any person who samples, weighs, or measures milk or cream received by buyers from producers and uses or submits for use, these tests or weights~~

in determining the price paid for it];

- (5) "Laboratory" means the location or work area where milk analysis or testing takes place~~["License to buy" means the license issued to buyers of milk or cream purchased from producers or their agents on basis of its volume, or weight and tests];~~
- (6) "Laboratory license" means the license issued to a milk laboratory~~["License to test" means the license issued to milk testers];~~
- (7) "License to handle" means the license is issued to a handler of milk;
- (8) "License to sample and weigh" means the license issued to a milk sampler-weigher;
- ~~[(8) "Board" means the creamery license board;]~~
- (9) "License to test" means the license issued to a milk tester~~["Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his designee];~~
- (10) "Location" means each separate business place where permitted producers' milk or milk samples are received, stored, or processed, or where records pertaining to permitted producers' milk tests or payments are kept~~["Producer" means any person, partnership, corporation, association, organization, or concern keeping milk cows for the production of milk or cream for sale to a milk buyer];~~
- (11) "Milk" means the lacteal secretion and all of its components, obtained by the milking of animals~~["Buying location" means each separate business place where nonpackaged milk or cream is received by buyers such as milk receiving stations, and milk plants; transfer stations are not considered buying locations];~~
- (12) "Milk importer" means any person who delivers milk from producers outside the Commonwealth of Kentucky to processors in this state~~["Nonpackaged milk" means milk as it is usually received from the farm before it is processed and put in bottles, cartons or other containers for consumer use];~~
- (13) "Milk processor" means any location where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk handler~~["Standard testware" means all testing equipment inspected and approved by the director for use in Kentucky and meeting all specifications of the National Bureau of Standards];~~
- (14) "Milk receiving station" means any location where producers' raw farm milk is collected, handled, or stored by a milk handler~~["Transfer station" means any place, premise, or establishment where farm bulk milk is transferred directly from one transport tank to another and producers' bulk tank milk samples are collected, handled, stored, and transported to a laboratory for analysis];~~
- (15) "Permitted producer" means any producer issued a permit by the Kentucky Cabinet for Health Services to offer milk for sale~~["Milk equivalent" means the amount of whole milk required to make other dairy products; thus, to convert milkfat to milk equivalent, multiply the pounds of milkfat by twenty five (25), for four percent (4%) milk];~~
- (16) "Person" shall mean any individual, bargaining agent, broker, processor, milk plant operator, partnership, cooperation, concern, corporation, organization, company, firm, trustee, association, or agent thereof~~["Milk receiving station" means any place, premise, or establishment where producers' raw farm milk is collected, handled, and stored by a milk buyer];~~
- (17) "Producer" means any person keeping animals for the production of milk~~["Milk plant" means any place, premise, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk buyer];~~
- (18) "Record" means any information relating to milk weights, tests, transfers, purchases, receipts, and sales~~["Transfer station license" means the license issued to operate a transfer station];~~
- (19) "Sampler-weigher" means any person who samples, weighs, or measures milk from producers and submits these samples, weights, or measurements for use in determining the price paid for milk;
- (20) "Test" means to analyze a milk sample to determine the amount of a milk component or to determine milk quality;
- (21) "Tester" means any person who tests milk from permitted producers to determine its components or quality, or submits these tests for use in determining the price paid for milk;
- (22) "Transfer station" means any location where farm bulk milk is transferred directly from one (1) tank to another and producers' milk samples are collected, handled, stored, and transported to a laboratory for analysis; and
- (23) "Transfer station license" means the license issued to operate a transfer station~~["Person" shall mean any individual, milk plant operator, partnership, corporation, company, firm, trustee, or association].~~

SECTION 2. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) The requirements and prohibitions of KRS 260.775 to 260.845 shall not apply to persons who buy milk for their own consumption.
- (2) It is unlawful for any person who is not licensed under KRS 260.775 to 260.845 to transact business with a permitted

producer of this state.

SECTION 3. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Each laboratory location where permitted producers' milk is tested shall be licensed. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.

SECTION 4. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

All milk importers who deliver milk to processors in this state shall be licensed or permitted to sample and weigh milk by the state from which the milk originated and shall comply with KRS 260.775 to 260.845.

SECTION 5. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Each transfer station location where permitted producers' milk is handled shall be licensed. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.

Section 6. KRS 260.795 is amended to read as follows:

Each location that handles permitted producers' milk in accordance with KRS 260.775 to 260.845 shall obtain a license to handle from the director. Application for a license to handle shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.~~Every milk plant, milk receiving station or other milk processing or manufacturing plant or person, or agent, firm, company, association or corporation buying milk or cream from producers or their agents shall secure and hold a license to buy for each buying location where such milk and cream is received. Application for a license shall be made to the director, the application to be accompanied by the license fee provided for in KRS 260.815. Upon receipt of the application and fee, the director shall issue to the buyer a license to buy milk or cream provided the buyer is in compliance with the provisions of KRS 260.775 to 260.845 and the regulations relating to the sampling, weighing, testing or buying of milk or cream and the handling, storage, and transportation of producers' milk samples as may be issued by the director.~~

Section 7. KRS 260.800 is amended to read as follows:

Each person who tests milk from permitted producers shall obtain a license to test. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. All applicants shall demonstrate their proficiency in testing by satisfactorily passing an examination prescribed by the director. Prior to taking an examination for a license, an applicant shall obtain a temporary license. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.~~(1) All persons who test milk or cream bought by buyers from producers shall secure and hold a license to test.~~

- ~~(2) Any applicant who tests milk or cream bought by buyers from producers shall demonstrate his proficiency in testing by satisfactorily passing an examination prescribed by the director.~~
- ~~(3) Prior to taking an examination for a license an applicant may apply for and secure a temporary license. Application for a temporary license to test shall be on a form prescribed by the director and accompanied by the license fee provided for in KRS 260.815.~~

Section 8. KRS 260.805 is amended to read as follows:

Each person who samples and weighs milk from permitted producers shall obtain a license to sample and weigh. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Applicants who sample and weigh milk from permitted producers shall attend formal training and satisfactorily pass an examination prescribed by the director. Prior to taking an examination for a license, an applicant shall obtain a temporary license. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.~~(1)~~

~~All persons who weigh, measure and sample milk or cream bought by buyers from producers shall secure and hold a license to sample and weigh. Application for such license shall be made on a form prescribed by the director and accompanied by the license fee provided for in KRS 260.815. Upon receipt of the application and fee, the director may issue to the sampler-weigher a temporary license to sample and weigh; then after the applicant has attended formal training and successfully passed a written examination, a license to sample and weigh milk and cream may be issued, provided that the sampler-weigher is in compliance with the provisions of KRS 260.775 to 260.845 and such regulations relating to weighing, measuring, and sampling of milk and cream as may be issued by the director.~~

- ~~(2) All persons who transfer milk from farm bulk milk tanks to bulk tank trucks for transporting to a buying location, such as a milk plant or receiving station or to a transfer station, shall secure and hold a license to sample and weigh.~~

SECTION 9. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any owner or operator of any laboratory to;

- (1) Operate a laboratory without having a laboratory license;
- (2) Fail to comply with administrative regulations promulgated by the director for the proper transporting, handling, storage, and testing of permitted producers' milk samples;

- (3) Manipulate, substitute, or falsify any producer's milk samples, test results, or records,
- (4) Test milk samples from permitted producers that were not obtained by licensed sampler-weighers;
- (5) Employ, engage, or obtain the services of a person to test permitted producers' milk samples who does not have a license to test; or
- (6) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to KRS 260.845.

Section 10. KRS 260.780 is amended to read as follows:

It shall be unlawful for a handler~~any buyer~~ of milk~~or cream~~ in this state to:

- (1) Receive or~~and~~ buy milk~~or cream~~ from permitted producers or their agents without obtaining a license for each~~buying~~ location where~~such~~ milk~~or cream~~ is received or handled;
- (2) Receive milk that~~or cream which~~ is paid for on the basis of weight or volume without having it sampled and weighed or measured by a licensed sampler-weigher;
- (3) Manipulate weights, measurements, or tests that are to be used as a basis to purchase milk~~that is, to pay for milk or cream on the basis of any weight or measurement or test that is not the true and legal weight or test~~;
- (4) ~~Manipulate or falsify records or to~~ Use false or incorrect records of weights or tests as a basis for payment~~that are not correct and legal weights, measurements or tests~~;
- (5) Receive milk~~or cream~~ purchased from permitted producers by a milk handler~~receiving station or milk plant~~ that does not have a license to handle~~buy~~;
- (6) Use weighing, mixing, sampling, or testing equipment which is inaccurate or nonstandard;
- (7) Fail to comply with administrative~~such~~ regulations for weighing, measuring, sampling, and testing milk~~or cream as may be~~ issued by the director;
- (8) Fail to keep records of weights and tests as required by administrative regulation or fail to make such records available for inspection by the director~~or his representative~~;
- (9) Receive milk which is paid for on the basis of tests without having it tested by a licensed tester;
- (10) Receive milk from a permitted producer whose milk is stored in an inaccurately calibrated bulk milk tank; or
- (11) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.

Section 11. KRS 260.785 is amended to read as follows:

It shall be unlawful for any milk sampler-weigher~~either for himself, or as officer, servant, agent, or employee of any person, firm, company, association, or corporation in this state~~ to:

- (1) Sample, weigh, or measure milk~~or cream~~ from~~farm~~ bulk milk tanks without obtaining a license to sample and weigh;
- (2) Inaccurately sample, weigh, or measure milk~~or cream~~;
- (3) Fail to comply with administrative~~such~~ regulations promulgated by the director for the proper sampling, weighing, or measuring of milk~~or cream~~ and handling, storage, and transportation of permitted producers' milk samples~~as may be issued by the director~~;
- (4) Employ, engage, or obtain the services of a person who does not have a sampler-weigher license to~~weigh and~~ sample and weigh~~farm bulk~~ milk;
- (5) Manipulate or falsify any producer weights, records, or samples for testing;
- (6) Sample, weigh, or measure milk from inaccurately calibrated bulk milk tanks;
- (7) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.

Section 12. KRS 260.790 is amended to read as follows:

It shall be unlawful for any milk tester~~in this state~~ to:

- (1) Test milk~~or cream~~ bought from permitted producers without obtaining a license to test;
- (2) Inaccurately test producers' milk~~or cream~~ samples;
- (3) Use inaccurate, nonstandard, or improperly calibrated equipment in testing~~of~~ milk~~or cream~~;
- (4) Manipulate or falsify tests or records;
- (5) Fail to comply with administrative~~such~~ regulations promulgated by the director for proper sampling, weighing, or testing of milk; or~~weighing and sampling as may be issued by the director~~;
- (6) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.

Section 13. KRS 260.793 is amended to read as follows:

It shall be unlawful for any owner or operator of any transfer station to:

- (1) Operate a transfer station without having a transfer station operator's license;

- (2) Fail to comply with administrative regulations promulgated~~issued~~ by the director for the proper storage, handling, and transport~~transporting~~ of producers' milk samples while at the transfer station and en route to the testing laboratory;
- (3) Manipulate, substitute, or falsify any producer milk weights or milk samples;
- (4) Transfer milk, samples, or records at a transfer station without having a current sampler-weigher's license;
- (5) Transfer milk that has not been ~~weighed and~~ sampled and weighed at the farm by a licensed sampler-weigher;
- (6) Transfer milk that has been sampled and weighed from an inaccurately calibrated bulk milk tank; or
- (7) Hinder or obstruct any authorized person in the performance of his or her duties under KRS 260.775 to 260.845.

SECTION 14. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) Every licensee shall keep complete records, as defined in Section 1 of this Act, for a period of two (2) years.
- (2) Each licensed location shall keep records of all its transactions at the location.
- (3) All records shall be accessible for inspection by the director during customary business hours.

SECTION 15. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) Each milk handler and laboratory shall, as required by the director, make and file reports for all matters of which a record is required to be kept.
- (2) No information furnished to the director under this section shall be disclosed in a way to divulge the operation of any person.
- (3) It shall be unlawful for any person to use to his own advantage, or reveal to a person other than the director, officers of the Kentucky Agricultural Experiment Station, or the courts when relevant in any judicial proceedings, any information acquired under the authority of KRS 260.775 to 260.845, concerning any method, records, formulations, processes, or financial information which as a trade secret is entitled to protection.
- (4) This prohibition shall not be deemed as prohibiting the director, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

SECTION 16. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Permitted producers' bulk milk tanks shall be accurately calibrated upon installation. Bulk milk tank calibrations shall be evaluated for accuracy every six (6) years after the effective date of this Act by the Kentucky Department of Agriculture, or when deemed necessary by the director or at the request of the permitted producer or licensed milk handler.

SECTION 17. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) For the financing of the producer's share of this program, all handlers who issue payments to Kentucky permitted producers shall deduct an inspection fee at the rate of one-half cent (\$0.005) per hundredweight from the producer's payment and shall transfer these funds to the director.
 - (a) The deduction shall be identified as "Inspection Fee".
 - (b) Each handler shall file on forms approved by the director, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the pounds of milk on which payment was issued to permitted producers during the preceding calendar quarter, and upon filing the statement shall transfer the inspection fee payment.
 - (c) Each handler shall keep the records required by the director to accurately indicate the amount of milk for which payments were issued to permitted producers.
- (2) For the financing of the processors' share of this program, handlers shall pay to the director an inspection fee at the rate of one-half cent (\$0.005) per hundredweight on all milk received by processor locations in Kentucky.
 - (a) Each handler shall file on forms approved by the director, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the pounds of all milk received by processor locations in Kentucky during the preceding calendar quarter, and upon filing the statement shall make the inspection fee payment.
 - (b) Each handler shall keep the records required by the director to accurately indicate the amount of milk delivered to or received by processor locations in Kentucky.
 - (c) This fee shall not in any way be passed back to producers. If the fee is found to have been passed back to producers, violators may be penalized as set forth in Section 24 of this Act, along with other actions that may be taken by the director under KRS 260.775 to 260.845.
- (3) Inspection fees that are due and have not been remitted to the director within fifteen (15) days following the due date shall be assessed a penalty fee as set forth in KRS 260.992. Assessment of this penalty fee shall not prevent the director from taking other actions under KRS 260.775 to 260.845.
- (4) Fees collected shall be used to help pay for a portion of the costs of inspection, analysis, and other expenses necessary

for the administration of KRS 260.775 to 260.845.

Section 18. KRS 260.815 is amended to read as follows:

The license fees to be paid for respective licenses provided for in KRS 260.795, 260.800, and 260.805 shall be per year or any portion of a year with the license year commencing July 1 and ending June 30. No license may be transferred or assigned. The license fees shall be as follows:

- (1) License to handle~~[Buyers, milk plants and receiving stations]:~~ For each location~~[milk plant, milk receiving station, person, agent, firm, company, association, or corporation an amount determined according to the following schedule]:~~
 - (a) One hundred twenty-five dollars (\$125) per license for those handling~~[buying]~~ less than ten~~[one]~~ million (10,000,000)~~[(1,000,000)]~~ pounds of milk ~~[or milk equivalent]~~ during the past year; or
 - (b) Three hundred fifty dollars (\$350) per license for those handling~~[buying]~~ more than ten~~[one]~~ million (10,000,000)~~[(1,000,000)]~~ pounds of milk ~~[or milk equivalent]~~ during the past year.
- (2) ~~[Testers:]~~ License to test: fifteen dollars (\$15) per person~~[seven dollars (\$7)]~~ for a temporary license or an annual~~[and seven dollars (\$7) for yearly]~~ license. ~~[Temporary fee to be deducted from annual fee if in the same fiscal year.]~~
- (3) Licensed to sample and weigh~~[Sampler-weigher]:~~ fifteen dollars (\$15) per person~~[Seven dollars (\$7)]~~ for a temporary license or an annual~~[and seven dollars (\$7) for yearly]~~ license. ~~[Temporary fee to be deducted from annual fee if in the same fiscal year.]~~
- (4) Transfer station license~~[stations]:~~ ~~[License to operate a transfer station for transferring producers' raw farm milk from one transport tank to another.]~~ twenty-five dollars (\$25) annually~~[per year]~~.
- (5) Laboratory license: twenty-five dollars (\$25) annually.
- (6) License fees for renewal of licenses that are due and have not been remitted to the director within thirty (30) days following the expiration date shall be assessed a penalty fee prescribed in Section 24 of this Act. Assessment of this penalty fee shall not prevent the director from taking other actions under KRS 260.775 to 260.845.

Section 19. KRS 260.825 is amended to read as follows:

- (1) The director shall enforce, administer, and implement the provisions of KRS 260.775 to 260.845 through the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) For the purpose of the enforcement of KRS 260.775 to 260.845, the director is authorized during normal business hours to enter any public or private premises, including any vehicle of transport, for the purpose of obtaining samples, gaining access to milk, milk samples, and records pertaining to milk handling, milk weights, milk test results, and milk payments. The director may:
 - (a) Collect samples obtained by sampler-weighers or testers for inspection purposes;
 - (b) Inspect equipment and other devices used in testing or sampling and weighing milk to determine the accuracy of this equipment and devices. Accuracy may be determined by requiring sampler-weighers and testers to operate equipment and devices to determine the accuracy of equipment, devices and procedures;
 - (c) Condemn inaccurate or improperly operating equipment; and
 - (d) Examine and copy records and take testimony for the purpose of ascertaining facts necessary to administer KRS 260.775 to 260.845.
- (3) At the request of producers, processors, handlers, sampler-weighers, or testers, the director may test for milk components or other tests of milk quality.
- (4) The director shall employ qualified persons to assist in the enforcement of KRS 260.775 to 260.845.
- (5) The director shall establish and maintain milk-testing facilities to determine if milk has been sampled, weighed, and tested correctly. The testing facility established shall be officially named the "Division of Regulatory Services Dairy Laboratory." The director shall, with approval of the Board of Trustees of the University of Kentucky, fix the salaries of the analysts, inspectors, and supporting staff.
- (6) The director shall cooperate with other federal, state, and local enforcement agencies~~[is charged with the enforcement of KRS 260.775 to 260.845 and may, subject to recommendation of the board, employ all proper means to aid and assist in the enforcement of its provisions, including the revocation or suspension of a license as provided in KRS 260.830. The director may delegate the administration of his responsibility, and may employ such personnel as may be necessary to assist him in the enforcement of KRS 260.775 to 260.845. Personnel engaged in the enforcement of KRS 260.775 to 260.845 and duly authorized by the director may inspect testing equipment and scales, take samples, make tests and retests, and may examine records of weights, tests and payments of fees required in KRS 260.820, of milk and cream at all reasonable hours at licensed places or other locations where pertinent records are held. Subject to recommendations of the board, the director shall promulgate reasonable regulations necessary to supplement KRS 260.775 to 260.845 relating to the buying of milk and cream and test weights used in testing milk and cream to assure accuracy, the definition of standard testware and test weights and may make other regulations reasonably calculated to promote the purposes of KRS 260.775 to 260.845].~~

Section 20. KRS 260.840 is amended to read as follows:

- (1) The *Kentucky Milk Handlers Advisory Board* shall consist of:

 - (a) The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture;
 - (b) The chair of the dairy committee of the Kentucky Farm Bureau Federation;
 - (c) The president of the Dairy Products Association of Kentucky;
 - (d) Three (3) permitted producers or permitted producer representatives;
 - (e) Two (2) processors or processor representatives;
 - (f) One (1) sampler-weigher or sampler-weigher representative; and
 - (g) One (1) tester or tester representative.

The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture shall act as chair of the board.
- (2) The director, or his designated representative, shall be an ex-officio member and secretary to the board.
- (3) (a) Each permitted producer shall be appointed by the director from a list of two (2) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation. If a permitted producer becomes chair of the dairy committee of the Kentucky Farm Bureau Federation during his or her term, the dairy committee shall appoint an alternate to serve the remainder of the term of the permitted producer.

(b) Each processor shall be appointed by the director from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. If a processor becomes president of the Dairy Products Association of Kentucky during his or her term, the executive committee shall appoint an alternate to serve the remainder of the term of the processor.

(c) The sampler-weigher and tester shall be at-large appointees and shall be appointed by the director.
- (4) Appointments to the board shall be for a term of three (3) years, or until their successors are appointed, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and three (3) members shall be appointed for three (3) years. The respective terms of the first members shall be designated by the director at the time of their appointment. No appointed board member shall serve more than two (2) consecutive terms.
- (5) Board members not already employed by the state shall be compensated at the rate of one hundred dollars (\$100) per day for board service and be reimbursed for any actual expense incurred while~~responsibility for advising the director concerning enforcement of KRS 260.775 to 260.845, for reporting violations, for conducting investigations and hearings pursuant to recommending revocation or suspension of a license, and for recommending rules and regulations to be issued by the director, is vested in the Creamery License Board. The board shall be composed of the coordinator of the dairy section of the Animal Science Department, University of Kentucky, who shall be chairman, and three (3) members appointed by the director. Two (2) of the three (3) appointed members shall be appointed from a list of four (4) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation and the third appointed member shall be appointed from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. The appointed members shall serve for a term of three (3) years and until their successors are appointed and qualified; except that the first appointments made under KRS 260.775 to 260.845 shall be for terms of one (1), two (2), and three (3) years respectively as the director shall designate. The board shall meet at such a time and place as the chairman shall designate. Three (3) members present at any meeting shall constitute a quorum, and upon the written request of any two (2) members, the chairman shall call a meeting at the time and place requested. Board members not already employed by the state shall be compensated at the rate of thirty dollars (\$30) per day for board service and all members shall be reimbursed for any actual expense incurred in] performing board duties.~~

SECTION 21. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall meet once annually, or when called into session by the chair, or upon the request of the director, or upon the request of any two (2) or more members of the board. Six (6) members present at a meeting shall constitute a quorum.
- (2) The board shall advise the director concerning policy and programs necessary to implement or improve implementation of KRS 260.775 to 260.845.

Section 22. KRS 260.830 is amended to read as follows:

- (1) The director may revoke or suspend any license issued under authority of KRS 260.775 to 260.845; provided, however, that any revocation or suspension shall occur only when the licensee has failed to comply with the provisions of KRS 260.775 to 260.845 or the administrative regulations issued thereunder, and provided that any revocation or suspension shall occur only after the licensee has had an opportunity, upon due notice, for an informal hearing before the director, to show cause why his license should not be revoked or suspended.

- (2) If a license is suspended or revoked as the result of an informal hearing, the decision may be appealed and upon appeal an administrative hearing shall be conducted before the board in accordance with KRS Chapter 13B.
- (3) Upon the revocation of any license, the licensee may appeal the final order of the board by filing a petition in the Fayette~~Franklin~~ Circuit Court in accordance with KRS Chapter 13B.

Section 23. KRS 260.845 is amended to read as follows:

- (1) All ~~funds~~~~monies~~ resulting from the payment of license fees, inspection fees, fines, penalty fees, or other charges provided for in KRS 260.775 to 260.845 shall be paid to the director and shall ~~constitute a special and separate fund which shall not lapse and which shall~~ be expended by the director under authority of the board of trustees of the University of Kentucky~~on proper and separate vouchers~~.
- (2) This ~~money~~~~fund~~ shall be used primarily for discharging expenses incurred in enforcing KRS 260.775 to 260.845 and any portion of the ~~money~~~~fund~~ not necessary ~~for~~~~to~~ this purpose shall be used to support research pertaining to methods and equipment for sampling and testing dairy products or such other dairy research work as the director may recommend.

Section 24. KRS 260.992 is amended to read as follows:

- (1) Any person who violates any provision of Section 4 of this Act~~tester or sampler weigher or transfer station violating, or failing, or refusing to comply with~~ KRS 260.785, 260.790, 260.800, or~~and~~ 260.805, shall~~upon conviction,~~ be fined one hundred dollars (\$100) for the first ~~violation~~~~offense~~ and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent ~~violation~~~~offense~~.
- (2) Any ~~milk plant, milk receiving station or~~ person who violates any provision of Sections 2, 3, 5, 9, and 13 of this Act, subparagraph (c) of subsection (2) of Section 17 of this Act~~or agent, firm, company, association or corporation violating, or failing, or refusing to comply with~~ KRS 260.780, 260.795, or~~and~~ 260.820~~shall be guilty of a misdemeanor and upon conviction,~~ shall be fined not more than five hundred dollars (\$500), nor more than seven hundred fifty dollars (\$750) for each subsequent violation~~or imprisoned for not more than one (1) year, or both~~.
- (3) Any person who violates any provision of Section 18 of this Act shall be assessed a penalty fee of a minimum of fifteen dollars (\$15) or ten percent (10%) of the amount due, whichever is greater, when payment is made.
- (4) Any person who violates any provision of subsection (3) of Section 17 of this Act shall be assessed a penalty fee of a minimum of twenty-five dollars (\$25) or ten percent (10%) of the amount due, whichever is greater, when payment is made.

SECTION 25. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

KRS 260.775 to 260.845 shall be known as the "Kentucky Farm Milk Handlers Law."

Section 26. This Act takes effect January 1, 2001.

Section 27. The following KRS sections are repealed:

260.810 Inspection of test equipment and measuring or calibrating devices.

260.820 Assessment of milk or cream purchases during month of May.

The Committee Substitute No. 1 to HB 386 is as follows:

HB 386, AN ACT relating to farm milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.775 is amended to read as follows:

As used in KRS 260.775 to 260.845, unless the context requires otherwise:

- (1) "Board" means the Kentucky Milk Handlers Advisory Board~~["Buyer" shall include any person, partnership, corporation, association, organization, company, firm, bargaining agent, receiving station, milk plant, or agent thereof who receives milk or cream from producers and pays the producers for it on basis of volume, or weight, and test, except that it does not include persons who buy milk or cream for their own consumption];~~
- (2) "Buy[er]" means~~["buying," or "bought" shall mean]~~ the receiving of milk~~or cream~~ from producers or their agents and paying for the milk~~it~~ on the basis of volume and test, or weight and test;
- (3) "Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his or her designee~~["Milk tester" shall include any person who tests milk or cream, bought by buyers from producers, to determine the constituents or quality of such milk or cream and uses, or submits for use, these tests in determining the price paid for it];~~
- (4) "Handler" means any person who receives, bargains, brokers, or issues payment for or purchases milk from Kentucky permitted producers or the permitted producers agents~~["Sampler weigher" shall include any person who samples, weighs, or measures milk or cream received by buyers from producers and uses or submits for use, these tests or weights in determining the price paid for it];~~

- (5) "Laboratory" means the location or work area where milk analysis or testing takes place~~["License to buy" means the license issued to buyers of milk or cream purchased from producers or their agents on basis of its volume, or weight and tests];~~
- (6) "Laboratory license" means the license issued to a milk laboratory~~["License to test" means the license issued to milk testers];~~
- (7) "License to handle" means the license is issued to a handler of milk;
- (8) "License to sample and weigh" means the license issued to a milk sampler-weigher;
- ~~[(8) "Board" means the creamery license board;]~~
- (9) "License to test" means the license issued to a milk tester~~["Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his designee];~~
- (10) "Location" means each separate business place where permitted producers' milk or milk samples are received, stored, or processed, or where records pertaining to permitted producers' milk tests or payments are kept~~["Producer" means any person, partnership, corporation, association, organization, or concern keeping milk cows for the production of milk or cream for sale to a milk buyer];~~
- (11) "Milk" means the lacteal secretion and all of its components, obtained by the milking of animals~~["Buying location" means each separate business place where nonpackaged milk or cream is received by buyers such as milk receiving stations, and milk plants; transfer stations are not considered buying locations];~~
- (12) "Milk importer" means any person who delivers milk from producers outside the Commonwealth of Kentucky to processors in this state~~["Nonpackaged milk" means milk as it is usually received from the farm before it is processed and put in bottles, cartons or other containers for consumer use];~~
- (13) "Milk processor" means any location where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk handler~~["Standard testware" means all testing equipment inspected and approved by the director for use in Kentucky and meeting all specifications of the National Bureau of Standards];~~
- (14) "Milk receiving station" means any location where producers' raw farm milk is collected, handled, or stored by a milk handler~~["Transfer station" means any place, premise, or establishment where farm bulk milk is transferred directly from one transport tank to another and producers' bulk tank milk samples are collected, handled, stored, and transported to a laboratory for analysis];~~
- (15) "Permitted producer" means any producer issued a permit by the Kentucky Cabinet for Health Services to offer milk for sale~~["Milk equivalent" means the amount of whole milk required to make other dairy products; thus, to convert milkfat to milk equivalent, multiply the pounds of milkfat by twenty five (25), for four percent (4%) milk];~~
- (16) "Person" shall mean any individual, bargaining agent, broker, processor, milk plant operator, partnership, cooperation, concern, corporation, organization, company, firm, trustee, association, or agent thereof~~["Milk receiving station" means any place, premise, or establishment where producers' raw farm milk is collected, handled, and stored by a milk buyer];~~
- (17) "Producer" means any person keeping animals for the production of milk~~["Milk plant" means any place, premise, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk buyer];~~
- (18) "Record" means any information relating to milk weights, tests, transfers, purchases, receipts, and sales~~["Transfer station license" means the license issued to operate a transfer station];~~
- (19) "Sampler-weigher" means any person who samples, weighs, or measures milk from producers and submits these samples, weights, or measurements for use in determining the price paid for milk;
- (20) "Test" means to analyze a milk sample to determine the amount of a milk component or to determine milk quality;
- (21) "Tester" means any person who tests milk from permitted producers to determine its components or quality, or submits these tests for use in determining the price paid for milk;
- (22) "Transfer station" means any location where farm bulk milk is transferred directly from one (1) tank to another and producers' milk samples are collected, handled, stored, and transported to a laboratory for analysis; and
- (23) "Transfer station license" means the license issued to operate a transfer station~~["Person" shall mean any individual, milk plant operator, partnership, corporation, company, firm, trustee, or association].~~

SECTION 2. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) The requirements and prohibitions of KRS 260.775 to 260.845 shall not apply to persons who buy milk for their own consumption.
- (2) It is unlawful for any person who is not licensed under KRS 260.775 to 260.845 to transact business with a permitted producer of this state.

SECTION 3. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Each laboratory location where permitted producers' milk is tested shall be licensed. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.

SECTION 4. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

All milk importers who deliver milk to processors in this state shall be licensed or permitted to sample and weigh milk by the state from which the milk originated and shall comply with KRS 260.775 to 260.845.

SECTION 5. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Each transfer station location where permitted producers' milk is handled shall be licensed. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.

Section 6. KRS 260.795 is amended to read as follows:

Each location that handles permitted producers' milk in accordance with KRS 260.775 to 260.845 shall obtain a license to handle from the director. Application for a license to handle shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.~~[Every milk plant, milk receiving station or other milk processing or manufacturing plant or person, or agent, firm, company, association or corporation buying milk or cream from producers or their agents shall secure and hold a license to buy for each buying location where such milk and cream is received. Application for a license shall be made to the director, the application to be accompanied by the license fee provided for in KRS 260.815. Upon receipt of the application and fee, the director shall issue to the buyer a license to buy milk or cream provided the buyer is in compliance with the provisions of KRS 260.775 to 260.845 and the regulations relating to the sampling, weighing, testing or buying of milk or cream and the handling, storage, and transportation of producers' milk samples as may be issued by the director].~~

Section 7. KRS 260.800 is amended to read as follows:

Each person who tests milk from permitted producers shall obtain a license to test. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. All applicants shall demonstrate their proficiency in testing by satisfactorily passing an examination prescribed by the director. Prior to taking an examination for a license, an applicant shall obtain a temporary license. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.~~[(1) All persons who test milk or cream bought by buyers from producers shall secure and hold a license to test.~~

~~(2) Any applicant who tests milk or cream bought by buyers from producers shall demonstrate his proficiency in testing by satisfactorily passing an examination prescribed by the director.~~

~~(3) Prior to taking an examination for a license an applicant may apply for and secure a temporary license. Application for a temporary license to test shall be on a form prescribed by the director and accompanied by the license fee provided for in KRS 260.815].~~

Section 8. KRS 260.805 is amended to read as follows:

Each person who samples and weighs milk from permitted producers shall obtain a license to sample and weigh. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Applicants who sample and weigh milk from permitted producers shall attend formal training and satisfactorily pass an examination prescribed by the director. Prior to taking an examination for a license, an applicant shall obtain a temporary license. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.~~[(1)~~

~~All persons who weigh, measure and sample milk or cream bought by buyers from producers shall secure and hold a license to sample and weigh. Application for such license shall be made on a form prescribed by the director and accompanied by the license fee provided for in KRS 260.815. Upon receipt of the application and fee, the director may issue to the sampler-weigher a temporary license to sample and weigh; then after the applicant has attended formal training and successfully passed a written examination, a license to sample and weigh milk and cream may be issued, provided that the sampler-weigher is in compliance with the provisions of KRS 260.775 to 260.845 and such regulations relating to weighing, measuring, and sampling of milk and cream as may be issued by the director.~~

~~(2) All persons who transfer milk from farm bulk milk tanks to bulk tank trucks for transporting to a buying location, such as a milk plant or receiving station or to a transfer station, shall secure and hold a license to sample and weigh].~~

SECTION 9. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any owner or operator of any laboratory to;

(1) Operate a laboratory without having a laboratory license;

(2) Fail to comply with administrative regulations promulgated by the director for the proper transporting, handling, storage, and testing of permitted producers' milk samples;

(3) Manipulate, substitute, or falsify any producer's milk samples, test results, or records,

- (4) Test milk samples from permitted producers that were not obtained by licensed sampler-weighers;
(5) Employ, engage, or obtain the services of a person to test permitted producers' milk samples who does not have a license to test; or
(6) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to KRS 260.845.

Section 10. KRS 260.780 is amended to read as follows:

It shall be unlawful for a handler~~[any buyer]~~ of milk~~[or cream]~~ in this state to:

- (1) Receive or~~[and]~~ buy milk~~[or cream]~~ from permitted producers or their agents without obtaining a license for each~~[buying]~~ location where~~[such]~~ milk~~[or cream]~~ is received or handled;
- (2) Receive milk that~~[or cream which]~~ is paid for on the basis of weight or volume without having it sampled and weighed or measured by a licensed sampler-weigher;
- (3) Manipulate weights, measurements, or tests that are to be used as a basis to purchase milk~~[that is, to pay for milk or cream on the basis of any weight or measurement or test that is not the true and legal weight or test];~~
- (4) ~~[Manipulate or falsify records or to]~~ Use false or incorrect records of weights or tests as a basis for payment~~[that are not correct and legal weights, measurements or tests];~~
- (5) Receive milk~~[or cream]~~ purchased from permitted producers by a milk handler~~[receiving station or milk plant]~~ that does not have a license to handle~~[buy]~~;
- (6) Use weighing, mixing, sampling, or testing equipment which is inaccurate or nonstandard;
- (7) Fail to comply with administrative~~[such]~~ regulations for weighing, measuring, sampling, and testing milk~~[or cream as may be]~~ issued by the director;
- (8) Fail to keep records of weights and tests as required by administrative regulation or fail to make such records available for inspection by the director~~[or his representative]; [or]~~
- (9) Receive milk which is paid for on the basis of tests without having it tested by a licensed tester;
- (10) Receive milk from a permitted producer whose milk is stored in an inaccurately calibrated bulk milk tank; or
- (11) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.

Section 11. KRS 260.785 is amended to read as follows:

It shall be unlawful for any milk sampler-weigher~~[either for himself, or as officer, servant, agent, or employee of any person, firm, company, association, or corporation in this state]~~ to:

- (1) Sample, weigh, or measure milk~~[or cream]~~ from~~[farm]~~ bulk milk tanks without obtaining a license to sample and weigh;
- (2) Inaccurately sample, weigh, or measure milk~~[or cream]~~;
- (3) Fail to comply with administrative~~[such]~~ regulations promulgated by the director for the proper sampling, weighing, or measuring of milk~~[or cream]~~ and handling, storage, and transportation of permitted producers' milk samples~~[as may be issued by the director];~~
- (4) Employ, engage, or obtain the services of a person who does not have a sampler-weigher license to ~~[weigh and]~~ sample and weigh~~[farm bulk]~~ milk;
- (5) Manipulate or falsify any producer weights, records, or samples for testing;
- (6) Sample, weigh, or measure milk from inaccurately calibrated bulk milk tanks;
- (7) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.

Section 12. KRS 260.790 is amended to read as follows:

It shall be unlawful for any milk tester~~[in this state]~~ to:

- (1) Test milk~~[or cream]~~ bought from permitted producers without obtaining a license to test;
- (2) Inaccurately test producers' milk~~[or cream]~~ samples;
- (3) Use inaccurate, nonstandard, or improperly calibrated equipment in testing~~[of]~~ milk~~[or cream]~~;
- (4) Manipulate or falsify tests or records;
- (5) Fail to comply with administrative~~[such]~~ regulations promulgated by the director for proper sampling, weighing, or testing of milk; or~~[weighing and sampling as may be issued by the director]~~
- (6) Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.

Section 13. KRS 260.793 is amended to read as follows:

It shall be unlawful for any owner or operator of any transfer station to:

- (1) Operate a transfer station without having a transfer station~~[operator's]~~ license;
- (2) Fail to comply with administrative regulations promulgated~~[issued]~~ by the director for the proper storage, handling, and transport~~[transporting]~~ of producers' milk samples while at the transfer station and en route to the testing laboratory;

- (3) Manipulate, substitute, or falsify any producer milk weights or milk samples;
- (4) Transfer milk, samples, or records at a transfer station without having a current sampler-weigher's license;
- (5) Transfer milk that has not been ~~weighed and~~ sampled and weighed at the farm by a licensed sampler-weigher;
- (6) Transfer milk that has been sampled and weighed from an inaccurately calibrated bulk milk tank; or
- (7) Hinder or obstruct any authorized person in the performance of his or her duties under KRS 260.775 to 260.845.

SECTION 14. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) Every licensee shall keep complete records, as defined in Section 1 of this Act, for a period of two (2) years.
- (2) Each licensed location shall keep records of all its transactions at the location.
- (3) All records shall be accessible for inspection by the director during customary business hours.

SECTION 15. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) Each milk handler and laboratory shall, as required by the director, make and file reports for all matters of which a record is required to be kept.
- (2) No information furnished to the director under this section shall be disclosed in a way to divulge the operation of any person.
- (3) It shall be unlawful for any person to use to his own advantage, or reveal to a person other than the director, officers of the Kentucky Agricultural Experiment Station, or the courts when relevant in any judicial proceedings, any information acquired under the authority of KRS 260.775 to 260.845, concerning any method, records, formulations, processes, or financial information which as a trade secret is entitled to protection.
- (4) This prohibition shall not be deemed as prohibiting the director, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

SECTION 16. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Permitted producers' bulk milk tanks shall be accurately calibrated upon installation. Bulk milk tank calibrations shall be evaluated for accuracy every six (6) years after the effective date of this Act by the Kentucky Department of Agriculture, or when deemed necessary by the director or at the request of the permitted producer or licensed milk handler.

SECTION 17. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) For the financing of the producer's share of this program, all handlers who issue payments to Kentucky permitted producers shall deduct an inspection fee at the rate of one-half cent (\$0.005) per hundredweight from the producer's payment and shall transfer these funds to the director.
 - (a) The deduction shall be identified as "Inspection Fee".
 - (b) Each handler shall file on forms approved by the director, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the pounds of milk on which payment was issued to permitted producers during the preceding calendar quarter, and upon filing the statement shall transfer the inspection fee payment.
 - (c) Each handler shall keep the records required by the director to accurately indicate the amount of milk for which payments were issued to permitted producers.
- (2) For the financing of the processors' share of this program, handlers shall pay to the director an inspection fee at the rate of one-half cent (\$0.005) per hundredweight on all milk received by processor locations in Kentucky.
 - (a) Each handler shall file on forms approved by the director, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the pounds of all milk received by processor locations in Kentucky during the preceding calendar quarter, and upon filing the statement shall make the inspection fee payment.
 - (b) Each handler shall keep the records required by the director to accurately indicate the amount of milk delivered to or received by processor locations in Kentucky.
 - (c) This fee shall not in any way be passed back to producers. If the fee is found to have been passed back to producers, violators may be penalized as set forth in Section 24 of this Act, along with other actions that may be taken by the director under KRS 260.775 to 260.845.
- (3) Inspection fees that are due and have not been remitted to the director within fifteen (15) days following the due date shall be assessed a penalty fee as set forth in KRS 260.992. Assessment of this penalty fee shall not prevent the director from taking other actions under KRS 260.775 to 260.845.
- (4) Fees collected shall be used to help pay for a portion of the costs of inspection, analysis, and other expenses necessary for the administration of KRS 260.775 to 260.845.

Section 18. KRS 260.815 is amended to read as follows:

The license fees to be paid for respective licenses provided for in KRS 260.795, 260.800, and 260.805 shall be per year or any portion of a year with the license year commencing July 1 and ending June 30. No license may be transferred or assigned. The license fees shall be as follows:

- (1) License to handle~~[Buyers, milk plants and receiving stations]~~: For each location~~[milk plant, milk receiving station, person, agent, firm, company, association, or corporation]~~ an amount determined according to the following schedule:
 - (a) One hundred twenty-five dollars (\$125) per license for those handling~~[buying]~~ less than ten~~[one]~~ million (10,000,000)~~[(1,000,000)]~~ pounds of milk~~[or milk equivalent]~~ during the past year; or
 - (b) Three hundred fifty dollars (\$350) per license for those handling~~[buying]~~ more than ten~~[one]~~ million (10,000,000)~~[(1,000,000)]~~ pounds of milk~~[or milk equivalent]~~ during the past year.
- (2) ~~[Testers:]~~ License to test: fifteen dollars (\$15) per person~~[seven dollars (\$7)]~~ for a temporary license or an annual~~[and seven dollars (\$7) for yearly]~~ license. ~~[Temporary fee to be deducted from annual fee if in the same fiscal year.]~~
- (3) Licensed to sample and weigh~~[Sampler weigher:]~~ fifteen dollars (\$15) per person~~[Seven dollars (\$7)]~~ for a temporary license or an annual~~[and seven dollars (\$7) for yearly]~~ license. ~~[Temporary fee to be deducted from annual fee if in the same fiscal year.]~~
- (4) Transfer station license~~[stations:]~~ ~~[License to operate a transfer station for transferring producers' raw farm milk from one transport tank to another.]~~ twenty-five dollars (\$25) annually~~[per year]~~.
- (5) Laboratory license: twenty-five dollars (\$25) annually.
- (6) License fees for renewal of licenses that are due and have not been remitted to the director within thirty (30) days following the expiration date shall be assessed a penalty fee prescribed in Section 24 of this Act. Assessment of this penalty fee shall not prevent the director from taking other actions under KRS 260.775 to 260.845.

Section 19. KRS 260.825 is amended to read as follows:

- (1) The director shall enforce, administer, and implement the provisions of KRS 260.775 to 260.845 through the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) For the purpose of the enforcement of KRS 260.775 to 260.845, the director is authorized during normal business hours to enter any public or private premises, including any vehicle of transport, for the purpose of obtaining samples, gaining access to milk, milk samples, and records pertaining to milk handling, milk weights, milk test results, and milk payments. The director may:
 - (a) Collect samples obtained by sampler-weighers or testers for inspection purposes;
 - (b) Inspect equipment and other devices used in testing or sampling and weighing milk to determine the accuracy of this equipment and devices. Accuracy may be determined by requiring sampler-weighers and testers to operate equipment and devices to determine the accuracy of equipment, devices and procedures;
 - (c) Condemn inaccurate or improperly operating equipment; and
 - (d) Examine and copy records and take testimony for the purpose of ascertaining facts necessary to administer KRS 260.775 to 260.845.
- (3) At the request of producers, processors, handlers, sampler-weighers, or testers, the director may test for milk components or other tests of milk quality.
- (4) The director shall employ qualified persons to assist in the enforcement of KRS 260.775 to 260.845.
- (5) The director shall establish and maintain milk-testing facilities to determine if milk has been sampled, weighed, and tested correctly. The testing facility established shall be officially named the "Division of Regulatory Services Dairy Laboratory." The director shall, with approval of the Board of Trustees of the University of Kentucky, fix the salaries of the analysts, inspectors, and supporting staff.
- (6) The director shall cooperate with other federal, state, and local enforcement agencies~~[is charged with the enforcement of KRS 260.775 to 260.845 and may, subject to recommendation of the board, employ all proper means to aid and assist in the enforcement of its provisions, including the revocation or suspension of a license as provided in KRS 260.830. The director may delegate the administration of his responsibility, and may employ such personnel as may be necessary to assist him in the enforcement of KRS 260.775 to 260.845. Personnel engaged in the enforcement of KRS 260.775 to 260.845 and duly authorized by the director may inspect testing equipment and scales, take samples, make tests and retests, and may examine records of weights, tests and payments of fees required in KRS 260.820, of milk and cream at all reasonable hours at licensed places or other locations where pertinent records are held. Subject to recommendations of the board, the director shall promulgate reasonable regulations necessary to supplement KRS 260.775 to 260.845 relating to the buying of milk and cream and test weights used in testing milk and cream to assure accuracy, the definition of standard testware and test weights and may make other regulations reasonably calculated to promote the purposes of KRS 260.775 to 260.845].~~

Section 20. KRS 260.840 is amended to read as follows:

- (1) The Kentucky Milk Handlers Advisory Board shall consist of:

- (a) The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture;
- (b) The chair of the dairy committee of the Kentucky Farm Bureau Federation;
- (c) The branch manager of the Milk Safety Branch of the Cabinet for Health Services;
- (d) Three (3) permitted producers or permitted producer representatives;
- (e) Two (2) processors or processor representatives;
- (f) One (1) sampler-weigher or sampler-weigher representative; and
- (g) One (1) tester or tester representative.

The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture shall act as chair of the board.

- (2) The director, or his designated representative, shall be an ex-officio member and secretary to the board.
- (3) (a) Each permitted producer shall be appointed by the director from a list of two (2) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation. If a permitted producer becomes chair of the dairy committee of the Kentucky Farm Bureau Federation during his or her term, the dairy committee shall appoint an alternate to serve the remainder of the term of the permitted producer.
- (b) Each processor shall be appointed by the director from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. If a processor becomes president of the Dairy Products Association of Kentucky during his or her term, the executive committee shall appoint an alternate to serve the remainder of the term of the processor.
- (c) The sampler-weigher and tester shall be at-large appointees and shall be appointed by the director.
- (4) Appointments to the board shall be for a term of three (3) years, or until their successors are appointed, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and three (3) members shall be appointed for three (3) years. The respective terms of the first members shall be designated by the director at the time of their appointment. No appointed board member shall serve more than two (2) consecutive terms.
- (5) Board members not already employed by the state shall be compensated at the rate of one hundred dollars (\$100) per day for board service and be reimbursed for any actual expense incurred while~~responsibility for advising the director concerning enforcement of KRS 260.775 to 260.845, for reporting violations, for conducting investigations and hearings pursuant to recommending revocation or suspension of a license, and for recommending rules and regulations to be issued by the director, is vested in the Creamery License Board. The board shall be composed of the coordinator of the dairy section of the Animal Science Department, University of Kentucky, who shall be chairman, and three (3) members appointed by the director. Two (2) of the three (3) appointed members shall be appointed from a list of four (4) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation and the third appointed member shall be appointed from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. The appointed members shall serve for a term of three (3) years and until their successors are appointed and qualified, except that the first appointments made under KRS 260.775 to 260.845 shall be for terms of one (1), two (2), and three (3) years respectively as the director shall designate. The board shall meet at such a time and place as the chairman shall designate. Three (3) members present at any meeting shall constitute a quorum, and upon the written request of any two (2) members, the chairman shall call a meeting at the time and place requested. Board members not already employed by the state shall be compensated at the rate of thirty dollars (\$30) per day for board service and all members shall be reimbursed for any actual expense incurred in~~ performing board duties.

SECTION 21. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) The board shall meet once annually, or when called into session by the chair, or upon the request of the director, or upon the request of any two (2) or more members of the board. Six (6) members present at a meeting shall constitute a quorum.
- (2) The board shall advise the director concerning policy and programs necessary to implement or improve implementation of KRS 260.775 to 260.845.

Section 22. KRS 260.830 is amended to read as follows:

- (1) The director may ~~refuse~~, revoke, ~~or~~ suspend, ~~or probate~~ any license ~~or temporary license~~ issued under authority of KRS 260.775 to 260.845; provided, however, that any ~~refusal~~, revocation, ~~or~~ suspension, ~~or probation~~ shall occur only when the licensee has failed to comply with the provisions of KRS 260.775 to 260.845 or the administrative regulations issued thereunder, and provided that any ~~refusal~~, revocation, ~~or~~ suspension, ~~or probation~~ shall occur only after the licensee has had an opportunity, upon due notice, for an informal hearing before the director, to show cause why ~~the~~~~his~~ license ~~or temporary license~~ should not be ~~refused~~, revoked, ~~or~~ suspended, ~~or probated~~.
- (2) The director may refuse, revoke, suspend, or probate any license or temporary license of a person who has plead guilty

to or been convicted of a felony.

- (3) If a license is ~~refused, suspended or~~ revoked, **suspended, or probated** as the result of an informal hearing, the decision may be appealed and upon appeal an administrative hearing shall be conducted before the board in accordance with KRS Chapter 13B.

- (4)(3) ~~Upon the revocation of any license,~~ The licensee may appeal the final order of the ~~director~~ **board** by filing a petition in the ~~Fayette~~ **Franklin** Circuit Court in accordance with KRS Chapter 13B.

Section 23. KRS 260.845 is amended to read as follows:

- (1) All ~~funds~~ **monies** resulting from the payment of license fees, inspection **fees, fines, penalty fees,** or other charges provided for in KRS 260.775 to 260.845 shall be paid to the director and shall ~~constitute a special and separate fund which shall not lapse and which shall~~ be expended by the director under authority of the board of trustees of the University of Kentucky ~~on proper and separate vouchers~~.
- (2) This ~~money~~ **fund** shall be used primarily for discharging expenses incurred in enforcing KRS 260.775 to 260.845 and any portion of the ~~money~~ **fund** not necessary ~~for to~~ this purpose shall be used to support research pertaining to methods and equipment for sampling and testing dairy products or such other dairy research work as the director may recommend.

Section 24. KRS 260.992 is amended to read as follows:

- (1) Any ~~person who violates any provision of Section 4 of this Act, [tester or sampler weigher or transfer station violating, or failing, or refusing to comply with]~~ KRS 260.785, 260.790, 260.800, ~~or [and]~~ 260.805, shall ~~upon conviction,~~ be fined one hundred dollars (\$100) for the first ~~violation~~ **offense** and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent ~~violation~~ **offense**.
- (2) Any ~~[milk plant, milk receiving station or]~~ person **who violates any provision of Sections 2, 3, 5, 9, and 13 of this Act, subparagraph (c) of subsection (2) of Section 17 of this Act, [or agent, firm, company, association or corporation violating, or failing, or refusing to comply with]** KRS 260.780, 260.795, ~~or [and]~~ 260.820 ~~shall be guilty of a misdemeanor and upon conviction,~~ shall be fined not more than five hundred dollars (\$500), **nor more than seven hundred fifty dollars (\$750) for each subsequent violation** ~~[or imprisoned for not more than one (1) year, or both]~~.
- (3) **Any person who violates any provision of Section 18 of this Act shall be assessed a penalty fee of a minimum of fifteen dollars (\$15) or ten percent (10%) of the amount due, whichever is greater, when payment is made.**
- (4) **Any person who violates any provision of subsection (3) of Section 17 of this Act shall be assessed a penalty fee of a minimum of twenty-five dollars (\$25) or ten percent (10%) of the amount due, whichever is greater, when payment is made.**

SECTION 25. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

KRS 260.775 to 260.845 shall be known as the "Kentucky Farm Milk Handlers Law."

Section 26. This Act takes effect January 1, 2001.

Section 27. The following KRS sections are repealed:

260.810 Inspection of test equipment and measuring or calibrating devices.

260.820 Assessment of milk or cream purchases during month of May.

HB 501, AN ACT relating to anhydrous ammonia.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.482 is amended to read as follows:

As used in KRS 250.483 to 250.488:

- (1) "Department" means the Department of Insurance;
- (2) "Division" means the Division of Fire Prevention in the Department of Housing, Buildings and Construction.
- (3) "Anhydrous ammonia" refers to the compound formed by the combination of the two (2) gaseous elements, nitrogen and hydrogen, in the proportion of one (1) part nitrogen to three (3) parts of hydrogen by volume. Anhydrous ammonia is ammonia gas in compressed or liquefied form, and is not aqueous ammonia.
- (4) **"Approved container" means a container for anhydrous ammonia which meets or exceeds the requirements of the Federal law or regulation for the storage and handling of anhydrous ammonia.**

Section 2. KRS 250.483 is amended to read as follows:

The Division of Fire Prevention in the Department of ~~Housing, Buildings and Construction~~ **Insurance** shall make, promulgate, and enforce **administrative** regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia. ~~The administrative~~ **Said** regulations shall be such as are reasonably necessary for the protection and safety of the public and persons using such materials, and shall be in substantial conformity with the generally-accepted standards of safety

concerning the same subject matter. ~~[Such regulations shall be adopted by the division after a public hearing thereon.]~~ Administrative regulations in substantial conformity with the published standards of the Fertilizer~~[Agricultural Ammonia]~~ Institute and the Compressed Gas Association for the design, installation, and construction of containers and equipment for the storage and handling of anhydrous ammonia shall be deemed to be in substantial conformity with the generally-accepted standards of safety concerning the same subject matter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

- (1) *It shall be unlawful for any person to knowingly possess anhydrous ammonia in any container other than an approved container.*
- (2) *The provisions of this section shall not apply to trained chemists working in properly equipped research laboratories in education, government, or corporate settings.*
- (3) *It shall be an affirmative defense to prosecution under this section that the anhydrous ammonia is possessed for the sole purpose of agricultural use.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

- (1) *It shall be unlawful for any person to tamper with equipment, containers, or facilities used for the storage, handling, transporting, or application of anhydrous ammonia.*
- (2) *Tampering occurs when any person who is not authorized by the owner of the anhydrous ammonia, equipment, container, or facility transfers or attempts to transfer anhydrous ammonia to another container; causes damage to the equipment, container, or facility; or vents anhydrous ammonia into the environment.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

Any person tampering with anhydrous ammonia equipment, containers or storage facilities in violation of Section 4 of this Act shall not have a cause of action against the owner of the equipment, container, or facility; any person responsible for the installation, maintenance, or operation of the equipment, container or facility; any person lawfully selling anhydrous ammonia; or any person lawfully purchasing anhydrous ammonia for agricultural purposes for damages arising out of the tampering.

Section 6. KRS 250.991 is amended to read as follows:

- (1) *Except as provided in Section 3 or Section 4 of this Act, any person who violates any provision of KRS 250.482 to 250.488 shall be fined not more than five hundred dollars (\$500).*
- (2) *Any person who knowingly possesses anhydrous ammonia in a container other than an approved container in violation of Section 3 of this Act is guilty of a Class D felony.*
- (3) *A violation of Section 4 of this Act is a Class D felony.*

Section 7. KRS 514.030 is amended to read as follows:

- (1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:
 - (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
 - (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.
- (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is three hundred dollars (\$300) or more, ~~[or unless the property is a firearm (regardless of the value of the firearm),]~~ in which case it is a Class D felony; *or unless:*
 - (a) *The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or*
 - (b) *The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony.*

Section 8. KRS 514.110 is amended to read as follows:

- (1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.
- (2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.
- (3) Receiving stolen property is a Class A misdemeanor unless the value of the property is three hundred dollars (\$300) or more, ~~[or unless the property is a firearm (regardless of the value of the firearm),]~~ in which case it is a Class D felony; *or unless:*
 - (a) *The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or*
 - (b) *The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D*

felony.

The Committee Amendment No. 1 to **HB 501** is as follows:

On page 2, line 17, after "who", by deleting the rest of the new language in the subsection, and by inserting ", having no right to do so, or any reasonable ground to believe that he has the right for a legitimate or legal purpose, transfers or attempts to transfer anhydrous ammonia to another container, or intentionally or wantonly defaces, destroys, or damages the equipment, container, or facility containing anhydrous ammonia.".

The Committee on Judiciary reported **HB 59**, **HB 130**, with Committee Substitute attached thereto, **HB 220**, with Committee Substitute and Committee Amendment attached thereto, **HB 402**, with Committee Amendments attached thereto, and **HB 475**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 59, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state. Nudity does not include a mother in the act of nursing the mother's baby.
- (b) "Public place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. "Public place" includes, but is not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal, or similar organization. Premises used solely as a private residence, whether permanent or temporary in nature, are not deemed to be a public place. "Public place" does not include enclosed single sex public restrooms, enclosed single sex functional showers, locker or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor does it include a modeling class, in which a person appears in a state of nudity, that is operated by a proprietary school licensed by the Commonwealth of Kentucky, a college, junior college, or university supported entirely or partly by taxation, or a private college or university where the private college or university maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college. "Public place" does not include a private facility that has been formed as a family-oriented clothing optional facility that is properly licensed by the state.

(2) A person is guilty of public indecency if he or she knowingly or intentionally, in a public place:

- (a) Engages in sexual intercourse;
- (b) Engages in deviate sexual conduct;
- (c) Engages in masturbation;
- (d) Engages in bestiality;
- (e) Engages in oral copulation, flagellation, excretory functions, or other ultimate sex acts; or
- (f) Appears in a state of nudity.

(3) Public indecency is a Class A misdemeanor.

(4) The provisions of this section shall not apply to the lawful activities of persons at a nudist society licensed under KRS Chapter 232.

(5) The provisions of this section shall not apply to any theatrical production that contains nudity, as defined in this section, that is performed in a theater by a professional or amateur theatrical or musical company and that has serious artistic merit.

(6) This section shall not affect in any fashion the ability of local jurisdictions or the state of Kentucky to regulate any activity where alcoholic beverages, including malt beverages, are sold for consumption, or to otherwise regulate or

license a public place and the activity therein.

HB 130, AN ACT relating to private data.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 61.870 THROUGH 61.884 IS CREATED TO READ AS FOLLOWS:

No public agency, as defined in KRS 61.870, shall distribute any information, including wage data, that has been collected by the state from any individual or corporation whether from tax returns or any other filings required by a public agency unless specifically authorized by federal or state statute or regulation. No information provided to the Commonwealth by an individual or corporation shall be sold to any third party for any purpose.

The Committee Substitute No. 1 to **HB 130** is as follows:

HB 130, AN ACT relating to private data.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 61.870 TO 61.884 IS CREATED TO READ AS FOLLOWS:

- (1) No public agency, as defined in KRS 61.870, shall sell or distribute any information, including wage data, that has been collected by the state from any individual or corporation from tax returns or any other filings required by a public agency, unless the release of the information is expressly authorized by federal or state statute or regulation.
- (2) Subsection (1) of this section shall not apply to:
 - (a) Any information provided in the aggregate which does not identify the individual;
 - (b) Any information provided by an individual or corporation to a public agency that is part of a public record, which is regularly and customarily open to inspection;
 - (c) Any information necessary to determine the existence of a public license;
 - (d) Any request for information that is accompanied by an authorization permitting inspection, executed by the individual or corporation to whom the information pertains;
 - (e) Any request for employment references for a state employee or a former state employee; and
 - (f) Any request for information verifying the employment status, duration of employment, income, or other information regarding a state employee resulting from the employee's application for the extension of credit.
- (3) Nothing in this section shall prohibit the public agency from charging fees for copying or any service fees necessary for time involved when employees obtain information not precluded from disclosure under this section.

HB 220, AN ACT relating to sex offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.540:

- (1) "Cabinet" means the Justice Cabinet.
- (2) "Law enforcement agency" means any lawfully-organized investigative agency, police unit, or police force of federal, state, county, city, metropolitan government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws.
- (3) "Sex offender" means:
 - (a) A person convicted of a sex crime; or
 - (b) A sexually violent predator.
- (4) "Sex offender information" means the name, Social Security number, photograph where available, age, race, sex, date of birth, height, weight, hair and eye color, aliases used, residence, including the date the residence is established, vehicle registration data, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of sex offenders.
- ~~(5)~~~~(4)~~ "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, KRS 530.020, 530.064, or 531.310; ~~or~~
 - (b) A felony attempt to commit a felony offense found in paragraph (a) of this subsection; or
 - (c) A federal felony offense, court martial of the United States Armed Forces felony offense, or felony offense from another state where the felony offense is similar to a felony offense found in paragraph (a) of this subsection.

(6) "Sexually violent predator" means a person who has been committed under Sections 6 to 24 of this Act, similar laws of another state, or similar federal laws[sex crime, or similar offenses in another jurisdiction].

Section 2. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a sex offender registration system which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender ~~convicted of~~ who has committed or attempted to commit a sex crime or who is a sexually violent predator shall, on or before the date of ~~within ten (10) days after~~ his release by the court, the parole board, Cabinet for Health Services, or the Justice Cabinet, register with the appropriate local probation and parole office in the county in which he or she intends to reside ~~resides~~. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register under this section by the court at the time of sentencing and by the official in charge of the place of confinement or civil commitment under Sections 6 to 24 of this Act, in the case of a sexually violent predator, upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained to the person. The court and the official in charge of the place of confinement or civil commitment under Sections 6 to 24 of this Act, in the case of a sexually violent predator, shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office.
- (5)
 - (a) The appropriate local probation and parole office shall send the registration form, containing the sex offender information and signed by the person, along with any special conditions imposed by the court or the Parole Board, to the Information Services Center, Kentucky State Police, Frankfort, Kentucky. The Information Services Center shall send the sex offender information and the registrant's photograph and fingerprints to the Federal Bureau of Investigation for inclusion in the National Sex Offender Registry.
 - (b) Any employee of a local probation and parole office who disseminates, or does not disseminate, sex offender information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) Any person who has ~~pled guilty or~~ been convicted in a court of another state, of a court of the United States, or a court martial of the United States Armed Forces ~~off the commission or attempt to commit~~ a sex crime, or who has been committed as a sexually violent predator under the laws of another state or federal laws, shall be informed at the time of his or her relocation to Kentucky of the duty to register under this section by the interstate compact officer of the Department of Corrections or the Department of Juvenile Justice. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall order the person to complete the registration form, and the officer shall facilitate the registration process. The officer shall then send the form, including any special conditions imposed by the court or the Parole Board in the state of conviction, to the Information Services Center, Kentucky State Police, Frankfort, Kentucky and to the appropriate local probation and parole office in the county of the sex offender's residence.
- (7) If a person is required to register as a sex offender under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration under this section if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (8) The registration form shall be a written statement signed by the person which shall include sex offender information.
- (9) For purposes of this section and KRS 17.550 to 17.991, a post office box number shall not be considered an address.
- (10)
 - (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date ~~within ten (10) days~~ of the change of address, with the appropriate local probation and parole office in the county in which he or she resides ~~of his new residence~~.
 - (b)
 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 2. The registrant shall also register with the appropriate local probation and parole office in the county of

his or her new residence on or before the date of the change of address.

- (c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall carry out notification responsibilities set forth under subsection (5) of this section~~[The appropriate local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky].~~
- (11) Any person required to register under this section who violates any of the provisions of this section is guilty of a Class D felony~~[A misdemeanor].~~
- (12) Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony~~[A misdemeanor].~~
- (13) (a) The Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under subsection (1) of Section 3 of this Act and at least once every calendar year for a person required to register under subsection (2) of Section 3 of this Act. If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under paragraphs (a) and (b) of subsection (10) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then carry out notification responsibilities under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate corrections agency.
- (b) When the appropriate court, Parole Board, or appropriate corrections agency receives notice from the Justice Cabinet, or any other source, that a person has failed to comply with any of the registration requirements under this section, then the court, Parole Board, or corrections agency:
1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
2. Shall notify the appropriate county attorney for prosecution~~[appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section].~~
- (14)~~[The statement required by subsection (6) of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.~~
- (15)~~]~~ Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.
- Section 3. KRS 17.520 is amended to read as follows:
- (1) A person shall remain registered for life under KRS 17.500 to 17.540 if that person has been:
- (a) Committed as a sexually violent predator under Sections 6 to 24 of this Act, similar laws of another state, or similar federal laws; or
- (b) Convicted of two (2) or more sex crimes~~[Persons classified as high risk sex offenders as provided by subsection (3) of KRS 17.550 shall remain registered for the lifetime of the offender, unless redesignated pursuant to KRS 17.578].~~
- (2) ~~[Persons classified as low or moderate risk.]~~ Sex offenders, other than persons identified in subsection (1) of this section, shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
- (3) If a sex offender is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the subsequent incarceration.
- SECTION 4. A NEW SECTION OF KRS 17.500 TO 17.540 IS CREATED TO READ AS FOLLOWS:
- (1) The Kentucky State Police shall establish a website, available to the public, with all of the sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Kentucky State Police, under Section 2 of this Act. The website shall be updated every day except for Saturdays, Sundays, and state holidays.
- (2) The information pertaining to an individual shall be maintained on the website so long as that individual is registered as a sex offender in accordance with KRS 17.500 to 17.540.
- (3) The following language shall be prominently displayed on the website: "UNDER KRS 525.070 AND 525.080, USE OF

INFORMATION OBTAINED FROM THIS WEBSITE TO HARASS A SEX OFFENDER IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A SEX OFFENDER."

- (4) (a) Any Kentucky State Police employee who disseminates, or does not disseminate, sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5) The Justice Cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the website created in this section and the location of public access to the website in the county where the person resides.

SECTION 5. A NEW SECTION OF KRS 17.500 TO 17.540 IS CREATED TO READ AS FOLLOWS:

A person shall be subject to the provisions of KRS 17.500 to 17.540 regardless of the date of that person's conviction for a sex crime or the date of that person's commitment as a sexually violent predator under Sections 6 to 24 of this Act, similar laws of another state, or similar federal laws.

SECTION 6. KRS CHAPTER 202C IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

Sections 6 to 24 of this Act shall govern the civil commitment of sexually violent predators.

SECTION 7. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

As used in Sections 6 to 24 of this Act, unless the context otherwise requires:

- (1) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to commit sexually violent offenses to the degree that the person constitutes a menace to the health and safety of others;
- (2) "Personality disorder" means any personality disorder as defined in the edition of the Diagnostic and Statistical Manual of Mental Disorders current as of the date of the examination;
- (3) "Predatory" describes acts directed toward:
- (a) Strangers;
- (b) Individuals with whom relationships have been established or promoted for the primary purpose of victimization; or
- (c) Both;
- (4) "Sexually violent offense" means:
- (a) A felony offense defined in KRS Chapter 510, KRS 530.020, 530.064, or 531.310; or
- (b) A felony attempt to commit a felony offense found in paragraph (a) of this subsection; and
- (5) "Sexually violent predator" means any person who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence and who has been:
- (a) Convicted of a sexually violent offense;
- (b) Found incompetent to stand trial for a sexually violent offense under Section 25 of this Act; or
- (c) Found not guilty by reason of insanity of a sexually violent offense under Section 26 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) (a) More than one hundred twenty (120) calendar days but less than one hundred fifty (150) calendar days prior to the expected discharge, release, or parole of a person convicted of a sexually violent offense, a certified provider, as defined in Section 27 of this Act, shall conduct an assessment of that person. In order to conduct the assessment, the certified provider shall be provided with:
1. The person's name, identifying factors, anticipated future residence, and offense history;
2. Any documentation of institutional adjustment and any treatment received;
3. Materials collected under Section 33 of this Act; and
4. All other relevant materials.
- (b) The assessment shall include a determination of whether the person may be a sexually violent predator.
- (c) The certified provider shall forward the assessment, all information provided to the certified provider, and all other relevant information to the Sex Offender Risk Assessment Advisory Board and the Parole Board.
- (2) Whenever possible, the assessments referred to in subsection (1) of this section shall be conducted at the same time as, and in coordination with, sex offender risk assessments conducted under KRS 439.265 and 532.045.

SECTION 9. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) On the day that a court determines that a person is incompetent to stand trial for a sexually violent offense under Section 25 of this Act, the court shall order that the person remain in custody or be taken into custody, if the person is not in custody, and shall order an assessment by a certified provider, as defined in Section 27 of this Act, within thirty (30) days. The certified provider shall be provided with the information referred to in subsection (1)(a) of Section 8 of this Act.
- (2) The certified provider shall conduct an assessment. If the certified provider determines that the person may be a sexually violent predator, the certified provider shall forward the assessment, all information provided to the certified provider, and all other relevant information to the Sex Offender Risk Assessment Advisory Board.
- (3) Only if the person is not subjected to civil commitment under Sections 6 to 24 of this Act, shall a court conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B as authorized under Section 25 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) On the day that a jury or court finds a defendant not guilty of a sexually violent offense by reason of insanity at the time of the offense, under Section 26 of this Act, the court shall order that the person remain in custody or be taken into custody, if the person is not in custody, and shall order an assessment by a certified provider, as defined in Section 27 of this Act, within thirty (30) days. The certified provider shall be provided with the information referred to in subsection (1)(a) of Section 8 of this Act.
- (2) The certified provider shall conduct an assessment. If the certified provider determines that the person may be a sexually violent predator, the certified provider shall forward the assessment, all information provided to the certified provider, and all other relevant information to the Sex Offender Risk Assessment Advisory Board. If the certified provider does not determine that the person may be a sexually violent predator, the court shall order the person's immediate release.
- (3) Only if the person is not subjected to civil commitment under Sections 6 to 24 of this Act shall a court conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) Upon receipt of an assessment under Section 8, 9, or 10 of this Act, the Sex Offender Risk Assessment Advisory Board shall review the assessment of the person by the certified provider, as defined in Section 27 of this Act, all information provided to the certified provider, and all other relevant information. The board shall then decide, by a vote conducted under KRS 17.562, whether that person may be a sexually violent predator.
- (2) If the board decides that a person may be a sexually violent predator, the board shall provide written notice of this decision, within three (3) business days of its rendering, to the Attorney General under Section 12 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

If the Sex Offender Risk Assessment Advisory Board determines, under the terms of Section 11 of this Act, that a person may be a sexually violent predator, the board shall provide written notice to the Attorney General at least ninety (90) days prior to the release from confinement of the person when possible. However, in the case of a person found incompetent to stand trial for a sexually violent offense under Section 25 of this Act, not guilty of a sexually violent offense by reason of insanity under Section 26 of this Act, or returned to prison for no more than ninety (90) days as the result of revocation of probation, written notice shall be given as soon as practicable. This written notice shall include the assessment of the person by the certified provider, as defined in Section 27 of this Act, all information provided to the certified provider, and all other relevant information.

SECTION 13. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) The Attorney General, or his or her designee, shall review all of the information provided on each person by the Sex Offender Risk Assessment Advisory Board under Section 12 of this Act. After the review, the Attorney General may file a petition, for the civil commitment of the person as a sexually violent predator, in the Circuit Court of the county of the person's confinement or residence within forty-five (45) days of the date on which the Attorney General receives the written notice under Section 12 of this Act.
- (2) As used in Sections 15, 16, 17, 18, 19, 22, and 23 of this Act, "court" means the court in which the Attorney General has filed a petition under this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) All hearings, probable-cause hearings, and trials conducted under Sections 15, 16, 18, and 19 of this Act shall be civil commitment proceedings which shall follow the Rules of Criminal Procedure, except as otherwise provided in Sections 15, 16, 18, and 19 of this Act. The person facing civil commitment shall have the constitutional rights of a criminal defendant, except as otherwise provided in Sections 15, 16, 18, and 19 of this Act.
- (2) In addition to the rights established in subsection (1) of this section, a person shall have the rights established in this subsection. Whenever any person may be subjected to an assessment under Section 15, 16, 18, or 19 of this Act, the person may retain an expert to perform an assessment of the person on the person's behalf, appear at trial on the

person's behalf, or both. When the person wishes to be assessed by an expert of the person's own choice, the expert shall be provided with the information referred to in subsection (1)(a) of Section 8 of this Act.

- (3) Any certified provider, as defined in Section 27 of this Act, or other expert who assesses a person under Section 15, 16, 18, or 19 of this Act on behalf of the Attorney General, Cabinet for Health Services, or other public agency shall be provided with the information referred to in subsection (1)(a) of Section 8 of this Act.
- (4) In the case of a person who is indigent and requests services under Section 15, 16, 18, or 19 of this Act, the court shall determine, under KRS Chapter 31, whether the services requested are necessary and reasonable compensation for those services.
- (5) No party to a proceeding shall call a victim, as defined in KRS 421.500, to testify.

SECTION 15. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) Upon the filing of a petition, under Section 13 of this Act, the court shall make an initial determination whether probable cause exists to believe that the person named in the petition is a sexually violent predator. The court may hear the petition in an ex parte proceeding. If the court determines that there is probable cause, the court shall order that the person remain in custody or be taken into custody, if the person is not in custody.
- (2) Within seventy-two (72) hours after an initial determination of probable cause is made in accordance with subsection (1) of this section, a hearing to determine probable cause shall occur.
- (3) At the hearing to determine probable cause, the court shall:
 - (a) Verify the identity of the person in custody; and
 - (b) Determine whether probable cause exists to believe that the person is a sexually violent predator. The Attorney General, on behalf of the Commonwealth, shall rely upon the petition and may supplement it with additional documentary evidence, testimony of an expert of the Attorney General's choice, or both.
- (4) If the court determines that probable cause exists, the court shall direct that the person be transferred to an appropriate secure facility.

SECTION 16. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) (a) Except as provided in paragraphs (b) and (c) of this subsection, within sixty (60) days after probable cause is established in accordance with subsections (2) and (3) of Section 15 of this Act, the court shall conduct a trial to determine whether the person, against whom probable cause has been established, is a sexually violent predator. The Attorney General shall represent the Commonwealth. The court may grant extensions to the sixty (60) day time limit to provide time for completion of any examinations of the person conducted on behalf of the Attorney General or on behalf of the person.
- (b) If the person charged with a sexually violent offense has been found incompetent to stand trial, under Section 25 of this Act, and the person's commitment is sought under paragraph (a) of this subsection, the court shall first hear evidence and determine whether the person committed the act or acts charged. The hearing on this issue shall comply with all procedures specified in this paragraph and paragraph (c) of this subsection.
- (c) After hearing evidence, the court shall make specific findings on whether the person committed the act or acts charged; the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf; the extent to which the evidence could be reconstructed without the assistance of the person; and the strength of the prosecution's case. If after the conclusion of the hearing, the court finds beyond a reasonable doubt that the person committed the act or acts charged, the court shall enter a final order that the person committed the act or acts charged. The person may appeal the final order but shall remain in custody until a court orders the person's release, and that order is not appealed. The court shall proceed to the consideration of whether the person should be committed under subsection (2) of this section.
- (2) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. The person may appeal a court determination or jury verdict that the person is a sexually violent predator.
- (3) If the court or jury is not satisfied beyond a reasonable doubt that a person is a sexually violent predator, the court shall direct the person's release.
- (4) Upon a mistrial, the court shall direct that the person be held in an appropriate secure facility until another trial is conducted. Any subsequent trial following a mistrial shall be held within sixty (60) days of the previous trial.

SECTION 17. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) If the court or jury determines that the person is a sexually violent predator under Section 16 of this Act, the court shall commit the person to the custody of the secretary of the Cabinet for Health Services for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is no longer a sexually violent predator.
- (2) In carrying out his or her responsibilities under subsection (1) of this section, the secretary shall:

- (a) Provide all of the control, care, and treatment;
 - (b) Delegate some or all of the control, care, and treatment through a contract with a private provider; or
 - (c) Delegate all of the control, care, and treatment to the commissioner of the Department of Corrections through an interagency agreement.
- (3) If the control, care, and treatment is delegated to the commissioner of the Department of Corrections under paragraph (c) of subsection (2) of this section, the commissioner shall:
- (a) Provide all of the control, care, and treatment; or
 - (b) Delegate some or all of the control, care, and treatment through a contract with a private provider.
- (4) A person under control, care, and treatment as provided in this section shall at all times be kept in a secure facility and segregated from other persons in the custody of the facility.
- (5) The Cabinet for Health Services and the Department of Corrections shall promulgate administrative regulations to carry out the provisions of this section.

SECTION 18. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) Once a year each person committed under Section 17 of this Act shall be assessed by a certified provider, as defined in Section 27 of this Act, to determine if the person is still a sexually violent predator.
- (2) The court shall conduct an annual hearing on the status of the committed person. Nothing contained in Sections 6 to 24 of this Act shall prohibit the person from otherwise petitioning the court for discharge at this hearing. The secretary of the Cabinet for Health Services shall provide the committed person with an annual written notice of the person's right to petition the court for release over the secretary's objection. The notice shall contain a form by which a person may waive through that person's signature the right to the annual status hearing. The secretary shall forward the notice and waiver form to the court with the annual report.
- (3) (a) At the probable cause portion of the hearing, the Attorney General shall represent the Commonwealth. If the court, at the probable cause portion of the hearing, determines that probable cause exists to believe that the person's mental abnormality or personality disorder is such that the person remains a sexually violent predator, then the court shall set a full hearing on the issue. If the Attorney General fails to establish probable cause, then the person shall be immediately released.
- (b) At the full hearing, the Attorney General shall represent the Commonwealth and shall rely upon the assessment of the certified provider filed with the court and the certified provider's testimony or the assessment and testimony of another expert of the Attorney General's choice.
- (c) The burden of proof at the hearing shall be upon the Commonwealth to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder is such that the person remains a sexually violent predator.

SECTION 19. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding Section 18 of this Act, if the secretary of the Cabinet for Health Services determines at any time that a person's mental abnormality or personality disorder has so changed that the person is no longer a sexually violent predator, the secretary shall authorize the person to petition the court for release. The petition shall be filed with the court and served upon the Attorney General.
- (2) The court, upon receipt of the petition for release, shall order a hearing within thirty (30) days. The Attorney General shall represent the Commonwealth and shall have the petitioner assessed by a certified provider, as defined in Section 27 of this Act, or shall request a separate assessment by another expert of the Attorney General's choice. At the hearing, the Attorney General shall rely on the certified provider's assessment and testimony or the assessment and testimony of the other expert.
- (3) The burden of proof at the hearing shall be upon the Commonwealth to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder is such that the person remains a sexually violent predator.

SECTION 20. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) The Attorney General shall possess jurisdiction, concurrent with that of county and Commonwealth's attorneys, to represent the Commonwealth in actions brought under Sections 6 to 24 of this Act.
- (2) The Attorney General may assign any of his or her duties under Sections 6 to 24 of this Act to any county or Commonwealth's attorney.

SECTION 21. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

A person shall be subject to the provisions of Sections 6 to 24 of this Act regardless of the date on which that person is convicted of a sexually violent offense or the date of that person's commitment as a sexually violent predator under Sections 6 to 24 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

- (1) To carry out the provisions of Sections 6 to 24 of this Act, the court may order an institution identified in Section 33 of this Act to release relevant information identified in Section 33 of this Act, to the court, the Sex Offender Risk Assessment Advisory Board, the Attorney General, a certified provider, as defined in Section 27 of this Act, and any other expert to aid in an assessment conducted on behalf of any party.
- (2) All confidential information released under this section shall remain confidential unless otherwise ordered by a court or by another person duly authorized to release the information.

SECTION 23. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

Any psychological reports, drug and alcohol reports, treatment records, reports of a diagnostic center, medical records, or victim impact statements that are submitted to the court or admitted into evidence under Section 15, 16, 18, or 19 of this Act shall be part of the record but shall be sealed and opened only on order of the court to carry out the provisions of Sections 6 to 24 of this Act.

SECTION 24. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

Persons carrying out duties or rendering professional opinions as provided in Sections 6 to 24 of this Act shall be immune from criminal and civil liability for these actions, if the actions are performed in good faith within the scope of professional duties and in a manner consistent with accepted professional practice.

Section 25. KRS 504.110 is amended to read as follows:

- (1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility or a forensic psychiatric facility and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first, except that if the defendant is charged with a felony, he shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health Services or the secretary's designee determines that the defendant shall be treated in another Cabinet for Health Services facility. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.
- (2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B, except as otherwise provided in Section 9 of this Act, in the case of a person found incompetent to stand trial for a sexually violent offense, as defined in Section 7 of this Act.
- (3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Section 26. KRS 504.120 is amended to read as follows:

- (1) In cases in which the defendant provides evidence at trial of his mental illness or insanity at the time of the offense, the jury or court may find the defendant:
 - (a) ~~[(1)]~~ Guilty;
 - (b) ~~[(2)]~~ Not guilty;
 - (c) ~~[(3)]~~ Not guilty by reason of insanity at the time of the offense; or
 - (d) ~~[(4)]~~ Guilty but mentally ill at the time of the offense.
- (2) On the day that a court or jury finds a defendant not guilty by reason of insanity at the time of a sexually violent offense, as defined in Section 7 of this Act, the court shall comply with the requirements of Section 10 of this Act.

Section 27. KRS 17.550 is amended to read as follows:

As used in KRS 17.550 to 17.991, the following definitions shall apply:

- (1) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;
- (2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500 ~~who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety~~;
- (3) ~~"High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;~~
- (4) ~~"Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;~~
- (5) ~~"Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;~~
- (6) ~~"Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional~~

capacity of a person in a manner that predisposes that individual to the commission of a sex crime;

- (7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;
- (8) "Certified provider" means a mental health professional certified by the Sex Offender Risk Assessment Advisory Board to conduct sexually violent predator assessments under Sections 6 to 24 of this Act~~(sexual offender risk assessments pursuant to KRS 17.550 to 17.991)~~, or presentence sex offender risk assessment ~~under~~~~(pursuant to)~~ KRS 532.050, or sex offender risk assessments related to probation or conditional discharge ~~under~~~~(pursuant to)~~ KRS 439.265, 439.267, and 532.045; and
- (4)(9) "Victim" means victim as defined by KRS 421.500.

Section 28. KRS 17.552 is amended to read as follows:

No person shall conduct sexually violent predator assessments under Sections 6 to 24 of this Act~~(sexual offender risk assessments pursuant to KRS 17.550 to 17.991)~~, or presentence sex offender risk assessments ~~under~~~~(pursuant to)~~ KRS 532.050, or sex offender risk assessments related to probation or conditional discharge ~~under~~~~(pursuant to)~~ KRS 439.265, 439.267, and 532.045, without first obtaining a certification from the Sex Offender Risk Assessment Advisory Board.

Section 29. KRS 17.554 is amended to read as follows:

- (1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall certify providers who shall conduct sexually violent predator assessments under Sections 6 to 24 of this Act~~(sexual offender risk assessments pursuant to KRS 17.550 to 17.991)~~, or presentence sex offender risk assessments ~~under~~~~(pursuant to)~~ KRS 532.050, or sex offender risk assessments related to probation or conditional discharge ~~under~~~~(pursuant to)~~ KRS 439.265, 439.267, and 532.045.
- (2) The board shall develop a risk assessment procedure that shall be used by certified providers in assessing whether a person may be a sexually violent predator and the risk of recommitting a sex crime by a sex offender and the threat posed to public safety. The procedure shall be based upon, but not limited to the following factors:
 - (a) Criminal history;
 - (b) Nature of the offense;
 - (c) Conditions of release that minimize risk;
 - (d) Physical conditions that minimize risk;
 - (e) Psychological or psychiatric profiles;
 - (f) Recent behavior that indicates an increased risk of recommitting a sex crime;
 - (g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and
 - (h) Review of the victim impact statement.

Section 30. KRS 17.558 is amended to read as follows:

- (1) The board may issue, refuse to issue, reissue, or renew a provider certificate, or may probate, suspend, or revoke the certificate of a provider who conducts sexual offender assessments.
- (2) The board shall revoke the certificate of a provider who conducts sexually violent predator assessments under Sections 6 to 24 of this Act or sex~~(sexual)~~ offender assessments while his certification is suspended.

Section 31. KRS 17.564 is amended to read as follows:

- (1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of KRS 17.550 to 17.991.
- (2) The board may promulgate administrative regulations requiring mandatory continuing education for certified providers to continue conducting sexually violent predator assessments under Sections 6 to 24 of this Act~~(sexual offender risk assessments pursuant to KRS 17.550 to 17.991)~~, or presentence sex offender risk assessments ~~under~~~~(pursuant to)~~ KRS 532.050, or sex offender risk assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045, as a condition for obtaining their renewal certificates.

Section 32. KRS 17.566 is amended to read as follows:

Only persons certified under KRS 17.550 to 17.991 may be known as certified providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are certified providers who conduct sexually violent predator assessments under Sections 6 to 24 of this Act~~(sexual offender risk assessments pursuant to KRS 17.550 to 17.991)~~, or presentence sex offender risk assessments ~~under~~~~(pursuant to)~~ KRS 532.050, or sex offender risk assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045.

Section 33. KRS 17.574 is amended to read as follows:

- (1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a person to a certified provider or other expert authorized to examine that person under Sections 6 to 24 of this Act, or KRS 532.050, or KRS 439.265, 439.267, and 532.045~~(sex offender to~~

~~be discharged, paroled, or released to the certified provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court].~~ The relevant information shall include but is not limited to:

- (a) The institutional record;
 - (b) The medical record including all psychological records; and
 - (c) The treatment record.
- (2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court or by another person duly authorized to release the information.

Section 34. KRS 17.576 is amended to read as follows:

Communications made in the course of sexually violent predator assessments under Sections 6 to 24 of this Act~~[sexual offender risk assessments pursuant to KRS 17.550 to 17.991]~~, or presentence sex offender risk assessments under~~[pursuant to]~~ KRS 532.050, or sex offender risk assessments related to probation or conditional discharge under~~[pursuant to]~~ KRS 439.265, 439.267, or 532.045 to the certified provider and any employee of the certified provider who is assigned to assist in the assessments shall be privileged from disclosure in any civil or criminal proceeding, except in a civil commitment proceeding brought under Sections 6 to 24 of this Act, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

Section 35. The following KRS sections are repealed:

- 17.570 Order for sex offender risk assessment -- Cost -- Hearing -- Appeal -- Notice to sheriff upon release of sex offender.
- 17.572 Notification for high, moderate, and low risk sex offenders.
- 17.578 Petition for relief from duty to register.

The Committee Substitute No. 1 to **HB 220** is as follows:

HB 220, AN ACT relating to sex offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.540:

- (1) "Cabinet" means the Justice Cabinet.
- (2) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 - 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 - 2. Unlawful confinement, as set forth in KRS 509.020, except by a parent;
 - 3. Sex crime;
 - 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 - 5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 - 6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 - 7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 - 8. Any attempt to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph; and
 - 9. Solicitation to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph.
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense.
- (3) "Law enforcement agency" means any lawfully-organized investigative agency, police unit, or police force of federal, state, county, city, metropolitan government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws.
- (4) "Registrant" means:
 - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed or attempted to commit:
 - 1. A sex crime; or
 - 2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under subsection (6) or (7) of Section 2 of this Act; or

(c) Any sexually violent predator.

(5)(3) "Registrant[Sex offender] information" means the name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, vehicle registration data, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of sex registrants[offenders].

(6)(4) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, KRS 530.020, 530.064, or 531.310;[;]

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection[sex crime, or similar offenses in another jurisdiction].

(7) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme.

Section 2. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement ~~an~~~~a sex~~ offender registration system which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) ~~A registrant shall, on or before the date of~~~~Any person eighteen (18) years of age or older at the time of the offense or any youthful offender who has committed or attempted to commit a sex crime shall, within ten (10) days after~~ his ~~or her~~ release by the court, the parole board,~~or~~ the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside[resides]. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection ~~(4)(2)~~ of this section shall be informed of the duty to register ~~under this section~~ by the court at the time of sentencing and by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register ~~under this section~~ has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky **40601**.
- (4) The court or the official shall order the person to:
 - (a) Register with the appropriate local probation and parole office; and**
 - (b) Report to a local detention facility within forty-eight (48) hours. The facility shall obtain the person's fingerprints under KRS 441.046 and the person's photograph. The local detention facility shall send the fingerprints and the photograph to the Information Services Center, Kentucky State Police.**
- (5)
 - (a) The appropriate probation and parole office shall send the registration form containing the registrant information as well as any special conditions imposed by the court or the Parole Board,[form] to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.**
 - (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.**
 - (c) Any employee of a local probation and parole office or the Information Services Center who disseminates, or does not disseminate, sex offender information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.**
- (6) Any person who has ~~pled guilty or~~ been convicted in a court of another state ~~or territory~~~~[or]~~ a court of the United States, or a court martial of the United States Armed Forces of ~~the commission or attempt to commit~~ a sex crime, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, shall be informed at the time of his ~~or her~~ relocation to Kentucky of the duty to register under this section by the interstate compact officer of the Department of Corrections or the Department of Juvenile Justice. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall order the person to complete the registration form, and the officer shall facilitate the registration process. The officer shall then send the form, including any special conditions imposed by the court or the Parole Board in the state of conviction to the Information Services Center, Kentucky State Police, Frankfort, Kentucky and to the appropriate local probation and parole office in the county of the sex offender's residence.
- (7) If a person is required to register ~~as a sex offender~~ under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration ~~under~~

~~this section~~ if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section and register with the appropriate local probation and parole office in the county of employment, vocation, or schooling. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

- (8) The registration form shall be a written statement signed by the person which shall include registrant~~[sex offender]~~ information.
- (9) For purposes of this section and KRS 17.550 to 17.991, a post office box number shall not be considered an address.
- (10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date~~[within ten (10) days]~~ of the change of address, with the appropriate local probation and parole office in the county in which he or she resides~~[of his new residence].~~
- (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) days after the date of the change of address.
- (c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section~~[The appropriate local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky].~~
- (11) Any person required to register under this section who violates any of the provisions of this section is guilty of a Class D felony~~[A misdemeanor].~~
- (12) Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony~~[A misdemeanor].~~
- (13) (a) The Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under subsection (2) of Section 3 of this Act and at least once every calendar year for a person required to register under subsection (3) of Section 3 of this Act. If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under paragraphs (a) and (b) of subsection (10) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate corrections agency.
- (b) When the appropriate court, Parole Board, or appropriate corrections agency receives notice from the Justice Cabinet, or any other source, that a person has failed to comply with any of the registration requirements under this section, then the court, Parole Board, or corrections agency:
1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
2. Shall notify the appropriate county attorney for prosecution~~[appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.~~
- ~~(14) The statement required by subsection (6) of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.~~
- ~~(15) Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.~~
- Section 3. KRS 17.520 is amended to read as follows:
- (1) An offender who is a registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time under this section.

- (2) (a) Lifetime registration is required for:
1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 3. Any person convicted of a sex crime:
 - a. Who has one (1) or more prior convictions of a criminal offense against a victim who is a minor;
or
 - b. Who has one (1) or more prior sex crime convictions;
 4. Any person who has been convicted of two (2) or more criminal offenses against a victim who is a minor;
 5. Any person who has been convicted of:
 - a. Rape in the first degree under KRS 510.040;
 - b. Sodomy in the first degree under KRS 510.070; or
 - c. Sexual abuse in the first degree under KRS 510.110; and
 6. Any sexually violent predator.
- (3) All other registrants are required to register for ten (10) years following discharge from confinement or ten (10) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
- (4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the reincarceration.
- (5) An offender who has pled guilty or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction.
- (6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601~~[Persons classified as high risk sex offenders as provided by subsection (3) of KRS 17.550 shall remain registered for the lifetime of the offender, unless redesignated pursuant to KRS 17.578.~~
- ~~(2) Persons classified as low or moderate risk sex offenders shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.~~
- ~~(3) If a sex offender is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the subsequent incarceration].~~

Section 4. KRS 17.550 is amended to read as follows:

As used in KRS 17.550 to 17.991, the following definitions shall apply:

- (1) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;
- (2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500~~[who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety];~~
- ~~(3) "High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;~~
- ~~(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;~~
- ~~(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;~~
- ~~(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;~~

- (7) ~~"Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;~~
- (8) ~~"Approved~~Certified ~~provider" means a mental health professional approved~~certified ~~by the Sex Offender Risk Assessment Advisory Board to conduct~~~~sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or~~~~presentence sex offender risk assessment under~~pursuant to ~~KRS 532.050,~~ ~~or sex offender risk assessments related to probation or conditional discharge under~~pursuant to ~~KRS 439.265, 439.267, and 532.045; and~~
- (4)(9) ~~"Victim" means victim as defined by KRS 421.500.~~

SECTION 5. A NEW SECTION OF KRS 17.550 TO 17.991 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky State Police shall establish a website available to the public. The website shall display:
- (a) The registrant information, except for information that identifies a victim and Social Security numbers, obtained by the Information Services Center, Kentucky State Police, under Section 2 of this Act; and
 - (b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Kentucky State Police, under KRS 17.510 prior to the effective date of this Act.

The website shall be updated every day except for Saturdays, Sundays, and state holidays.

- (2) The information pertaining to an individual shall be maintained on the website so long as that individual is registered in accordance with KRS 17.500 to 17.540.
- (3) The following language shall be prominently displayed on the website: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEBSITE TO HARASS A SEX OFFENDER IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A SEX OFFENDER."
- (4) (a) Any Kentucky State Police employee who disseminates, or does not disseminate, sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5) The Justice Cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the website created in this section and the location of public access to the website in the county where the person resides.

Section 6. KRS 17.552 is amended to read as follows:

No person shall conduct~~sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or~~ presentence sex offender risk assessments ~~under~~pursuant to KRS 532.050~~,~~ or presentence sex offender risk assessments related to probation or conditional discharge ~~under~~pursuant to KRS ~~439.265, 439.267, and~~ 532.045, without first obtaining a certification from the Sex Offender Risk Assessment Advisory Board.

Section 7. KRS 17.554 is amended to read as follows:

- (1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall ~~approve~~certify providers who shall conduct~~sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or~~ presentence sex offender risk assessments ~~under~~pursuant to KRS 532.050~~,~~ or sex offender risk assessments related to probation or conditional discharge ~~under~~pursuant to KRS ~~439.265, 439.267, and~~ 532.045.
- (2) The board shall develop a risk assessment procedure that shall be used by ~~approved~~certified providers in assessing the risk of recommitting a sex crime by a sex offender and the threat posed to public safety. The procedure shall be based upon, but not limited to the following factors:
- (a) Criminal history;
 - (b) Nature of the offense;
 - (c) Conditions of release that minimize risk;
 - (d) Physical conditions that minimize risk;
 - (e) Psychological or psychiatric profiles;
 - (f) Recent behavior that indicates an increased risk of recommitting a sex crime;
 - (g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and
 - (h) Review of the victim impact statement.

Section 8. KRS 17.558 is amended to read as follows:

- (1) The board may issue, refuse to issue, reissue, or renew a provider ~~approval~~certificate, or may probate, suspend, or revoke the ~~approval~~certificate of a provider who conducts sexual offender assessments.

- (2) The board shall revoke the approval~~[certificate]~~ of a provider who conducts sex~~[sexual]~~ offender assessments while his or her approval~~[certification]~~ is suspended.

Section 9. KRS 17.560 is amended to read as follows:

- (1) Prior to the refusal to issue, renew, probate, suspend, or revoke the approval~~[certificate]~~ of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.
- (a) The hearing may be conducted by a hearing officer;
- (b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to review by a majority of the full board, which shall issue a final order.
- (2) The board may proceed against an approved~~[a certified]~~ provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.
- (3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization containing allegations that if true would warrant action, the board may proceed against the approved~~[certified]~~ provider.
- (4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 10. KRS 17.564 is amended to read as follows:

- (1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of KRS 17.550 to 17.991.
- (2) The board may promulgate administrative regulations requiring mandatory continuing education for approved~~[certified]~~ providers to continue conducting ~~[sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or]~~ presentence sex offender risk assessments under~~[pursuant to]~~ KRS 532.050~~[,]~~ or presentence sex offender risk assessments related to probation or conditional discharge under~~[pursuant to]~~ KRS~~[439.265, 439.267, and]~~ 532.045, as a condition for obtaining their renewal approvals~~[certificates]~~.

Section 11. KRS 17.566 is amended to read as follows:

Only persons approved~~[certified]~~ under KRS 17.550 to 17.991 may be known as approved~~[certified]~~ providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are approved~~[certified]~~ providers who conduct ~~[sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or]~~ presentence sex offender risk assessments under~~[pursuant to]~~ KRS 532.050~~[,]~~ or presentence sex offender risk assessments related to probation or conditional discharge under~~[pursuant to]~~ KRS~~[439.265, 439.267, and]~~ 532.045.

Section 12. KRS 17.574 is amended to read as follows:

- (1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the approved~~[certified]~~ provider for review prior to the release or discharge for consideration in making recommendations~~[to the sentencing court]~~. The relevant information shall include but is not limited to:
- (a) The institutional record;
- (b) The medical record including all psychological records; and
- (c) The treatment record.
- (2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court or by another person duly authorized to release the information.

Section 13. KRS 17.576 is amended to read as follows:

Communications made in the course of ~~[sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or]~~ presentence sex offender risk assessments under~~[pursuant to]~~ KRS 532.050, or presentence sex offender risk assessments related to probation or conditional discharge under~~[pursuant to]~~ KRS~~[439.265, 439.267, or]~~ 532.045 to the approved~~[certified]~~ provider and any employee of the approved~~[certified]~~ provider who is assigned to assist in the assessments shall be privileged from disclosure in any civil or criminal proceeding, other than to determine sentence, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

Section 14. KRS 17.578 is amended to read as follows:

~~[(1)]~~ A person required to register under the provisions of Sections 2 and 3 of this Act shall be relieved of any further duty to register only upon reversal of the underlying conviction or upon a pardon~~[designated a "high risk sex offender" and who is required to register for his lifetime pursuant to the provisions of this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent. If the petition is denied, the person may petition for relief from the high risk designation every five (5) years thereafter.~~

- (2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.
- (3) The sentencing court shall conduct a second hearing as provided in KRS 17.570.

SECTION 15. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

No registrant, as defined in Section 1 of this Act, who is placed on probation, parole, or any form of supervised release, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence.

SECTION 16. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.540 and KRS 17.550 to 17.991:

- (1) Law enforcement agencies;
- (2) Independent contractors acting under the direction of law enforcement agencies;
- (3) State and county officials;
- (4) Approved providers, as defined under Section 4 of this Act; and
- (5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

Section 17. The provisions of Sections 1 to 16 of this Act shall apply to all persons who, after the effective date of this Act, are required under Section 2 of this Act to become registrants, as defined in Section 1 of this Act.

Section 18. The following KRS sections are repealed:

17.570 Order for sex offender risk assessment -- Cost -- Hearing -- Appeal -- Notice to sheriff upon release of sex offender.

17.572 Notification for high, moderate, and low risk sex offenders.

Section 19. Whereas the federal government has mandated that the Commonwealth immediately enact public safety legislation contained in this Act or lose federal funding, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 220** is as follows:

By amending the title to read as follows: "AN ACT relating to public safety and declaring an emergency."

HB 402, AN ACT relating to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in subsections (4) and (5) of this section, any trust, regardless of when or how the trust was created, may be amended under the provisions of subsection (2) of this section to:
 - (a) Divide the trust into two (2) or more separate trusts;
 - (b) Consolidate two (2) or more trusts into a single trust; or
 - (c) Change the provisions of the trust in any manner, for any lawful purpose, including, but not limited to, conforming to the requirements of, or obtaining any benefits under, the Internal Revenue Code or any other federal tax law.
- (2) A trust may be amended:
 - (a) According to terms set forth in the instrument or as otherwise provided by law;
 - (b) With the written approval of the trustee; all of the beneficiaries designated in the governing instrument by name or class who are living and not under a disability; and the settlor, if living and competent; or
 - (c) By order of the District Court or Circuit Court in which the trust was registered in a proceeding brought under KRS 386.660.
- (3) The effective date of any amendment shall be specified by the document, agreement, or order approving the amendment and may be retroactive to the creation of the trust.
- (4) This section shall not apply to amendments of charitable trusts governed by the provisions of KRS 386.360.
- (5) No trust shall be amended if the proposed amendment defeats or substantially impairs the fulfillment of the purposes of the trust.

Section 2. KRS 391.030 is amended to read as follows:

- (1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration, and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:
 - (a) The personal estate of an infant shall be distributed as if he had died after full age.

- (b) An alien may be distributee as though he were a citizen.
- (c) Personal property or money on hand or in bank to the amount of fifteen thousand dollars (\$15,000) ~~{seven thousand five hundred dollars (\$7,500)}~~ shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate, on application of the personal representative or any one (1) or more of the distributees, for distribution to the surviving spouse, or, if there is no surviving spouse, per stirpes to the then living descendants of the deceased person, if any ~~[to the children surviving]~~.
- (2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the District Court having jurisdiction over administration of his estate, an order authorizing him or her to withdraw from any bank or other depository not exceeding one thousand dollars (\$1,000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him or her to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk and he or she shall retain it in his or her files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.
- (3) In the application for the setting apart of property or money under this section the applicant may, subject to approval by the District Court, ~~[surviving spouse, or, if there is no surviving spouse, the children may]~~ make the ~~[their]~~ selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of fifteen thousand dollars (\$15,000) ~~[seven thousand five hundred dollars (\$7,500)]~~.
- (4) Where any person dies testate and bequeaths his or her personal estate, in whole or in part, among his or her surviving spouse and descendants, his or her personal property or money on hand or in bank to the amount of fifteen thousand dollars (\$15,000) or the amount of the total bequests to his or her surviving spouse and descendants, whichever amount is less, shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate, on application of the personal representative or any one (1) or more of the exempt legatees, exempting first any interest of the surviving spouse, unless waived, and then the interests per stirpes to the then living descendants of the deceased person.
- (5) A surviving spouse who renounces a will shall be entitled to the family exemption in subsection (1)(c) of this section on application of the surviving spouse. This exempt amount shall be set aside in addition to the statutory share of the surviving spouse under Section 3 of this Act

~~[The exemption provided in this section applies where the husband or wife dies testate].~~

Section 3. KRS 392.080 is amended to read as follows:

- (1) When a husband or wife dies testate, the surviving spouse may, though under full age, release what is given to him or her by will, if any, and receive his or her share under KRS 392.020 as if no will had been made, except that in such case the share in any real estate of which the decedent or anyone for the use of the decedent was seized of an estate in fee simple at the time of death shall be only one-third (1/3) of such real estate. Such relinquishment shall be made within six (6) months after ~~[the]~~ probate, and acknowledged before and left for record with the county clerk or his or her authorized deputy in the county where probate was made, or acknowledged before a subscribing witness and proved before and left with the county clerk or his or her authorized deputy. A copy of such relinquishment shall be filed with the clerk of the court in which probate was made. If, within those six (6) months, an action contesting the will is brought, the surviving spouse need not make such relinquishment until within six (6) months succeeding the time when the action is disposed of. Provided, however, the period for renunciation may be extended not exceeding six (6) additional months by order entered by the district court upon application of the surviving spouse for such extension within six (6) months after the date of probate for such extension.
- (2) Subsection (1) does not preclude the surviving spouse from receiving his or her share under KRS 392.020, in addition to any bequest or devise to him or her by will, if such is the intention of the testator, plainly expressed in the will or necessarily inferable from the will.
- (3) If there is an inter vivos trust that was created by the testator, and if under the terms of the trust the surviving spouse is entitled to any interest in the trust or is granted any power or nomination with respect to the trust, and if the surviving spouse makes an election to take under KRS 392.020 as if no will had been made, then, unless the trust instrument provides otherwise, the surviving spouse is deemed for purposes of the trust to have predeceased the testator, and there shall be an acceleration of remainder or other interests in all property bequeathed or devised to the trust by the will, in all property held by the trustee at the time of the death of the decedent, and in all property that comes into the hands of the trustee by reason of the death of the decedent.

Section 4. KRS 395.455 is amended to read as follows:

- (1) Where the value of the probatable assets is less than or equal to the amount of the family exemption, if any, plus any preferred claims paid or owing ~~[exemption of the surviving spouse alone, or together with preferred claims paid by a widow or by the widower where the wife's estate is legally liable for payment, equals or exceeds the amount of probatable assets]~~, the court may order that administration of the estate be dispensed with and that such assets be transferred first to the person or persons entitled to the family exemption, if any, and next to the claimant or claimants who paid preferred

claims or to whom they are owing, if any, or to a person designated by any of them under oath to receive all or part of their respective share~~[surviving spouse or to a person designated by such surviving spouse to receive all or part]~~ of such assets. The court may so order upon petition under oath by one (1) or more persons or claimants entitled to all or part of such assets in both testate and intestate estates and without requiring the renunciation of a will or the giving of bond.

- (2) If the court is satisfied that no probatable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and in the case of a testate estate that the will be probated only.
- (3) ~~Where a surviving spouse has waived his or her right to the exemption accorded by law in favor of a person who has paid preferred claims in an amount equalling or exceeding the amount of probatable assets or who is legally entitled to such payment, or where there is no surviving spouse and such person has made such payment or is legally entitled thereto, the court may order that the administration of the estate be dispensed with and such assets transferred to such person. The court may so order without requiring the giving of bond.~~
- (4) For purpose of this section, the family exemption~~[of the surviving spouse]~~ is the~~[such]~~ exemption~~[as has been]~~ created by KRS 391.030 and the preferred claims are those listed in KRS 396.095 and in the order thereof.

The Committee Amendment No. 1 to **HB 402** is as follows:

On page 3, line 3, delete "subject to approval by the District Court"; and
On page 3, line 19, after "on" insert "his or her" and delete "of the surviving spouse".

The Committee Amendment No. 2 to **HB 402** is as follows:

On page 5, lines 9, 10, and 11, delete "or to a person designated by any of them under oath to receive all or part of their respective share"; and
On page 5, line 12, after "upon" insert "verified"; and
On page 5, line 13, delete "under oath"; and
On page 5, line 19, remove the bracket and strikethroughs; and
On page 5, remove the strikethroughs on lines 20 to 25; and
On page 5, line 26, remove the bracket and strikethroughs from "(4)".

The Committee Amendment No. 3 to **HB 402** is as follows:

On page 2, line 22, after "exceeding" insert "two thousand five hundred dollars (\$2,500)"; and
On page 2, line 22, place a bracket before "one" and strike through "one thousand"; and
On page 2, line 23, strike through "dollars (\$1,000)" and place a bracket after "(\$1,000)".

The Committee Amendment No. 4 to **HB 402** is as follows:

On page 6, after line 1, add:

"Section 5. KRS 394.092 is amended to read as follows:

If after executing a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, conservator or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes to any contingent beneficiary or class of contingent beneficiaries, identified in the will, as if the former spouse failed to survive the decedent. If there is no contingent beneficiary or class of contingent beneficiaries, identified in the will, entitled to the former spouse's inheritance, the property passes to the residuary estate~~[as if the former spouse failed to survive the decedent, and]~~ Other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by the testator's remarriage to the former spouse."

HB 475, AN ACT relating to criminal justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.037 is amended to read as follows:

- (1) All personnel of the department, while acting for the department in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.
- (2) All department personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Kentucky State Police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Department of Corrections or a detention facility of the Department of Corrections shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.
- (3) Probation and parole officers, while acting for the department in any capacity entailing the maintenance of custody or supervision of any confined prisoner, paroled prisoner, escaped prisoner, ~~or~~ probationer, or other person otherwise placed under their supervision shall have all the authority and powers of peace officers.

Section 2. KRS 197.025 is amended to read as follows:

- (1) KRS 61.884 and 61.878 to the contrary notwithstanding, no person, including any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.
- (2) KRS 61.872 to the contrary notwithstanding, the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which pertains to that individual.
- (3) KRS 61.880 to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.
- (4) KRS 61.872 to the contrary notwithstanding, the Department of Corrections shall refuse to accept the hand delivery of an open records request from a confined inmate.
- (5) KRS 61.870 to 61.884 to the contrary notwithstanding, all records containing information expunged pursuant to law shall not be open to the public.
- (6) The policies and procedures of administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for these policies and procedures shall be conducted in closed sessions.
- (7) KRS 61.880(1) to the contrary notwithstanding, upon receipt of a request for any record, the department shall determine within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, whether the record shall be released.

Section 3. KRS 197.045 is amended to read as follows:

- (1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the department from the conduct of the prisoner. In addition, the department shall provide an educational good time credit of sixty (60) days to any prisoner who successfully receives a graduate equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, or a two (2) year or four (4) year certification in applied sciences, or who receives a technical education diploma as provided and defined by the department; prisoners may earn additional credit for each program completed. The department may forfeit any good time previously earned by the prisoner or deny the prisoner the right to earn good time in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.
- (2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.
- (3) An inmate may, at the discretion of the commissioner, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.
- (4) Until successful completion of the sex offender treatment program, a sex offender may earn good time. However, the good time shall not be credited to the sex offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all good time earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, a sex offender may continue to earn good time in the manner provided by administrative regulations promulgated by the Department of Corrections. Any sex offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his sentence. A sex offender who does not complete the sex offender treatment program for any reason shall serve his entire sentence without benefit of good time, parole, or other form of early release. The provisions of this section shall not apply to any sex offender convicted before July 15, 1998, or to any mentally

retarded sex offender.

- (5) (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of good time and the ability to earn good time in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, ~~or~~ harassing, or ~~if satisfied that the action is legally without merit or~~ factually frivolous.
- (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of good time forfeited as well as any prohibition imposed on the future earning of good time.

Section 4. KRS 438.250 is amended to read as follows:

- (1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing ~~of the blood~~ for human immunodeficiency virus (HIV), hepatitis A, B, and C, and tuberculosis.
- (2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.
- (3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.
- (4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.
- (5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

Section 5. KRS 439.563 is amended to read as follows:

- (1) When there is an identified victim of a defendant's crime to whom restitution has been ordered but not yet paid in full, or restitution has been ordered paid to a government agency and has not yet been paid in full, the Parole Board shall order the defendant to pay restitution as a condition of parole.
- (2) When the Parole Board orders restitution, the board shall:
 - (a) Order the restitution to be paid to a specific person or organization through the Division of Probation and Parole, which shall disburse the moneys as ordered by the board;
 - ~~(b) The Division of Probation and Parole shall be responsible for overseeing the collection of the restitution;~~
 - ~~(c) Set the amount of restitution to be paid, if not already set;~~
 - ~~(c)(d) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;~~
 - ~~(e) Monitor the payment of the restitution to assure that payment is being made;~~
 - ~~(f) If restitution is not being paid as ordered, institute parole violation proceedings to determine why the restitution is not being paid;~~
 - ~~(g) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and~~
 - ~~(h) Not release the defendant from parole supervision until restitution has been paid in full.~~
- (3) When the Parole Board orders restitution, the Department of Probation and Parole shall:
 - (a) Monitor and oversee the collection of the restitution;
 - (b) Institute parole violation proceedings if the restitution is not being paid;
 - (d) Institute sanctions against the defendant if restitution is not being paid and good cause is not shown for the nonpayment; and
 - (e) Maintain parole supervision over the defendant until restitution has been paid in full.
- (4) The board, in addition to any other sanctions which may be imposed on the defendant, ask a court to hold a defendant who is not paying restitution in the manner or amount prescribed in contempt of court.
- ~~(5)(4)~~ Any statute relating to the length of parole supervision notwithstanding, the parole for a person owing restitution shall be

until the restitution is paid in full, even if this would lengthen the period of supervision beyond the statutory limit of parole supervision or the statutory limit for serving out the sentence imposed.

- ~~(6)~~~~(5)~~ Payment of restitution in full prior to the end of the period of parole supervision shall not shorten the period of parole supervision.

Section 6. KRS 454.405 is amended to read as follows:

- (1) At any time, and upon its own motion or on motion of a party, a court may dismiss a civil action brought by an inmate or on behalf of an inmate if satisfied that the action is malicious or harassing or if satisfied that the action is legally without merit or factually frivolous. In addition to any other available disposition, a court may dismiss the civil action if satisfied that the affidavit of poverty in support of a request to proceed in forma pauperis is wholly or partly false or misleading.
- (2) This section does not apply to criminal or collateral criminal proceedings.
- (3) A court which dismisses a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section shall include as part of its order specific findings as to the reasons for the dismissal. The court shall, upon issuing the order, direct the circuit clerk to transmit a copy of the entire court order to the official having custody of the inmate and to the county attorney of the county where the action was filed.
- (4) A court which dismisses a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section may include as part of its order an assessment of fines and costs against the inmate as the court may deem reasonable and prudent. The Department of Corrections may enforce this assessment against the inmate's prison account and against any other assets of the inmate through any other mechanism provided by law.
- (5) No inmate may maintain a civil action for monetary damages in any state court for mental or emotional injury without a prior showing of physical injury.**
- (6) In no case shall an inmate bring a civil action or appeal a judgment in a civil action if the inmate has, on two (2) or more prior occasions, brought an action or appeal in a state court that was dismissed either under this section or due to a failure to pay the required court costs and fees, unless the inmate is under imminent danger of serious physical injury.**

Section 7. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
 - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 1. A state, county, city, or federal peace officer;
 2. An employee of a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 3. An employee of the Department for Social Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or
 4. A probation and parole officer; or
 - (b) Being a person confined in a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, ~~or~~ urine, **or other bodily fluid** to be thrown upon an employee of the facility.
- (2) Assault in the third degree is a Class D felony.

Section 8. KRS 510.120 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the second degree when:
 - (a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded or mentally incapacitated; ~~or~~
 - (b) He subjects another person who is less than fourteen (14) years old to sexual contact; **or**
 - (c) Being an officer, employee, contractor, vendor, or volunteer of the Department of Corrections, a detention facility as defined in KRS 520.010, or an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he has sexual contact with an offender to whom he is not married being incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity.**
- (2) Sexual abuse in the second degree is a Class A misdemeanor.

Section 9. KRS 532.043 is amended to read as follows:

- (1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, KRS **529.030**, 530.020, 530.064, ~~or~~ 531.310, **or 531.320** shall be

~~subject[sentenced]~~ to a period of conditional discharge following release from:

- (a) Incarceration upon expiration of sentence; or
- (b) Completion of parole.
- (2) The period of conditional discharge shall be three (3) years.
- (3) During the period of conditional discharge, the defendant shall:
 - (a) Be subject to all orders specified by the Department of Corrections; and
 - (b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.
- (4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.
- (5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant as set forth in KRS 532.060 ~~for no longer than the time remaining on the conditional discharge~~.
- (6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after July 15, 1998.

Section 10. KRS 533.025 is amended to read as follows:

- (1) When a person is convicted of, pleads guilty to, or enters an Alford plea to a felony offense and is sentenced to jail as a condition of conditional discharge or as a condition of probation, the Department of Corrections shall pay for the incarceration of that person in a county jail at the same rate and under the same conditions as for a Class D felon who is incarcerated in the county jail under KRS 532.100.
- (2) If a person incarcerated in a county jail on conditional discharge or probation under subsection (1) of this section is granted work release, he shall pay the work release fees required by law to the jailer. The amount of work release fees paid by a prisoner shall be deducted from the amount which the Department of Corrections shall pay for the incarceration of that prisoner.
- (3) The Department of Corrections may, during the prisoner's period of incarceration in the county jail, take custody of the prisoner and hold that person in a state prison facility for the purpose of treating the following medical conditions:
 - (a) Chronic heart and lung conditions;
 - (b) Psychiatric conditions;
 - (c) Acute medical conditions that require diagnostic testing or hospitalization;
 - (d) Acute surgical conditions; or
 - (e) Pregnancy.

The Committee Substitute No. 1 to **HB 475** is as follows:

HB 475, AN ACT relating to criminal justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.037 is amended to read as follows:

- (1) All personnel of the department, while acting for the department in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.
- (2) All department personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Kentucky State Police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Department of Corrections or a detention facility of the Department of Corrections shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.
- (3) Probation and parole officers, while acting for the department in any capacity entailing the maintenance of custody or supervision of any confined prisoner, paroled prisoner, escaped prisoner, ~~or~~ probationer, or other person otherwise placed under their supervision shall have all the authority and powers of peace officers.

Section 2. KRS 197.025 is amended to read as follows:

- (1) KRS 61.884 and 61.878 to the contrary notwithstanding, no person, including any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.
- (2) KRS 61.872 to the contrary notwithstanding, the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the

department, unless the request is for a record which pertains to that individual.

- (3) KRS 61.880 to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.
- (4) KRS 61.872 to the contrary notwithstanding, the Department of Corrections shall refuse to accept the hand delivery of an open records request from a confined inmate.
- (5) KRS 61.870 to 61.884 to the contrary notwithstanding, all records containing information expunged pursuant to law shall not be open to the public.
- (6) The policies and procedures of administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for these policies and procedures shall be conducted in closed sessions.
- (7) KRS 61.880(1) to the contrary notwithstanding, upon receipt of a request for any record, the department shall determine within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, whether the record shall be released.

Section 3. KRS 197.045 is amended to read as follows:

- (1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the department from the conduct of the prisoner. In addition, the department shall provide an educational good time credit of sixty (60) days to any prisoner who successfully receives a graduate equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, or a two (2) year or four (4) year certification in applied sciences, or who receives a technical education diploma as provided and defined by the department; prisoners may earn additional credit for each program completed. The department may forfeit any good time previously earned by the prisoner or deny the prisoner the right to earn good time in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.
- (2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.
- (3) An inmate may, at the discretion of the commissioner, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.
- (4) Until successful completion of the sex offender treatment program, a sex offender may earn good time. However, the good time shall not be credited to the sex offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all good time earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, a sex offender may continue to earn good time in the manner provided by administrative regulations promulgated by the Department of Corrections. Any sex offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his sentence. A sex offender who does not complete the sex offender treatment program for any reason shall serve his entire sentence without benefit of good time, parole, or other form of early release. The provisions of this section shall not apply to any sex offender convicted before July 15, 1998, or to any mentally retarded sex offender.
- (5)
 - (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of good time and the ability to earn good time in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, ~~or~~ harassing, or ~~if satisfied that the action is legally without merit or~~ factually frivolous.
 - (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of good time forfeited as well as any prohibition imposed on the future earning of good time.

Section 4. KRS 438.250 is amended to read as follows:

- (1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing ~~of the blood~~ for human immunodeficiency virus (HIV), hepatitis A, B, and C, and tuberculosis.

- (2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.
- (3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.
- (4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

- (5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

Section 5. KRS 439.563 is amended to read as follows:

- (1) When there is an identified victim of a defendant's crime to whom restitution has been ordered but not yet paid in full, or restitution has been ordered paid to a government agency and has not yet been paid in full, the Parole Board shall order the defendant to pay restitution as a condition of parole.
- (2) When the Parole Board orders restitution, the board shall:
 - (a) Order the restitution to be paid to a specific person or organization through the Division of Probation and Parole, which shall disburse the moneys as ordered by the board;
 - ~~(b) The Division of Probation and Parole shall be responsible for overseeing the collection of the restitution;~~
 - ~~(c) Set the amount of restitution to be paid, if not already set;~~
 - ~~(c)(d) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;~~
 - ~~(e) Monitor the payment of the restitution to assure that payment is being made;~~
 - ~~(f) If restitution is not being paid as ordered, institute parole violation proceedings to determine why the restitution is not being paid;~~
 - ~~(g) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and~~
 - ~~(h) Not release the defendant from parole supervision until restitution has been paid in full.~~
- (3) **When the Parole Board orders restitution, the Department of Probation and Parole shall:**
 - (a) Monitor and oversee the collection of the restitution;**
 - (b) Institute parole violation proceedings if the restitution is not being paid;**
 - (d) Institute sanctions against the defendant if restitution is not being paid and good cause is not shown for the nonpayment; and**
 - (e) Maintain parole supervision over the defendant until restitution has been paid in full.**
- (4) The board, in addition to any other sanctions which may be imposed on the defendant, ask a court to hold a defendant who is not paying restitution in the manner or amount prescribed in contempt of court.
- ~~(5)(4)~~ Any statute relating to the length of parole supervision notwithstanding, the parole for a person owing restitution shall be until the restitution is paid in full, even if this would lengthen the period of supervision beyond the statutory limit of parole supervision or the statutory limit for serving out the sentence imposed.
- ~~(6)(5)~~ Payment of restitution in full prior to the end of the period of parole supervision shall not shorten the period of parole supervision.

Section 6. KRS 454.405 is amended to read as follows:

- (1) At any time, and upon its own motion or on motion of a party, a court may dismiss a civil action brought by an inmate or on behalf of an inmate if satisfied that the action is malicious or harassing or if satisfied that the action is legally without merit or factually frivolous. In addition to any other available disposition, a court may dismiss the civil action if satisfied that the affidavit of poverty in support of a request to proceed in forma pauperis is wholly or partly false or misleading.
- (2) This section does not apply to criminal or collateral criminal proceedings.
- (3) A court which dismisses a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section shall include as part of its order specific findings as to the reasons for the dismissal. The court shall, upon issuing the order, direct the circuit clerk to transmit a copy of the entire court order to the official having custody of the inmate and to the county attorney of the county where the action was filed.
- (4) A court which dismisses a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section may include as part of its order an assessment of fines and costs against the inmate as the court may deem reasonable and

prudent. The Department of Corrections may enforce this assessment against the inmate's prison account and against any other assets of the inmate through any other mechanism provided by law.

(5) No inmate may maintain a civil action for monetary damages in any state court for mental or emotional injury without a prior showing of physical injury.

Section 7. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
- (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 - 1. A state, county, city, or federal peace officer;
 - 2. An employee of a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 - 3. An employee of the Department for Social Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or
 - 4. A probation and parole officer; or
 - (b) Being a person confined in a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, ~~or~~ urine, **or other bodily fluid** to be thrown upon an employee of the facility.

- (2) Assault in the third degree is a Class D felony.

Section 8. KRS 510.120 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the second degree when:
- (a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded or mentally incapacitated; ~~or~~
 - (b) He subjects another person who is less than fourteen (14) years old to sexual contact; **or**
 - (c) **Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other.**

- (2) Sexual abuse in the second degree is a Class A misdemeanor.

Section 9. KRS 532.043 is amended to read as follows:

- (1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, KRS **529.030**, 530.020, 530.064, ~~or~~ 531.310, **or 531.320** shall be **subject[sentenced]** to a period of conditional discharge following release from:
- (a) Incarceration upon expiration of sentence; or
 - (b) Completion of parole.
- (2) The period of conditional discharge shall be three (3) years.
- (3) During the period of conditional discharge, the defendant shall:
- (a) Be subject to all orders specified by the Department of Corrections; and
 - (b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.
- (4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.
- (5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant **as set forth in KRS 532.060** ~~for no longer than the time remaining on the conditional discharge~~.
- (6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after July 15, 1998.

Section 10. KRS 533.025 is amended to read as follows:

- (1) When a person is convicted of, pleads guilty to, or enters an Alford plea to a felony offense and is sentenced to jail as a condition of conditional discharge or as a condition of probation, the Department of Corrections shall pay for the

incarceration of that person in a county jail at the same rate and under the same conditions as for a Class D felon who is incarcerated in the county jail under KRS 532.100.

- (2) If a person incarcerated in a county jail on conditional discharge or probation under subsection (1) of this section is granted work release, he shall pay the work release fees required by law to the jailer. The amount of work release fees paid by a prisoner shall be deducted from the amount which the Department of Corrections shall pay for the incarceration of that prisoner.
- (3) The Department of Corrections may, during the prisoner's period of incarceration in the county jail, take custody of the prisoner and hold that person in a state prison facility for the purpose of treating the following medical conditions:
- (a) Chronic heart and lung conditions;
 - (b) Psychiatric conditions;
 - (c) Acute medical conditions that require diagnostic testing or hospitalization;
 - (d) Acute surgical conditions;
 - (e) Pregnancy; or
 - (f) Any other medical condition which the Department of Corrections may set out by administrative regulation.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved the adoption of the following **Legislative Citation No. 58**.

The House of Representatives of the Commonwealth of Kentucky hereby extends warmest wishes to Ethel McBrayer upon her 86th Birthday. In celebration of this memorable event, the members of this distinguished body join with Representative Rocky Adkins in commending Ethel McBrayer for a life lived to the fullest and for the vitality of heart which has brought her thus far. Further, she is extended highest regards for the outstanding contributions she continues to make to her beloved family of three children, eight grandchildren and seven great-grandchildren, to the community and to this Commonwealth. Done in Frankfort, this tenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 58 was adopted without objection.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **HB 12**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that her vote be changed from "nay" to "yea" on Floor Amendment No. 11 to **HB 12**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 417**, by Representative R. Adams:

On page 1, line 10, after "city" by inserting "or within a rural service area in an urban-county".

Floor Amendment No. 2 to **HB 365**, by Representative Gray:

On page 2, lines 11 and 12, by deleting "full-time";

On page 2, line 15, after "equipment" by inserting "provided that the employee performs routine maintenance solely for a single employer";

On page 3, after line 16, by inserting:

- (5) The provisions of this chapter shall not apply to a person performing routine maintenance who neither solicits nor accepts compensation for performing routine maintenance."

Floor Amendment No. 1 to the Committee Substitute to **HB 477**, by Representative Geveden:

On page 2, line 3, after "Section" by deleting "4" and inserting "5" in lieu thereof.

Floor Amendment No. 2 to **HB 381**, by Representative Palumbo:

- On page 1, line 10, by deleting "executive director of the Office of Coal County Development in".
- On page 1, line 10 through 11, by removing brackets and strikethroughs from "secretary of".
- On page 1, line 16 through 17, by deleting "executive director of the Office of Coal County Development in".
- On page 1, line 17, by removing brackets and strikethroughs from "secretary of".
- On page 1, line 19 through 20, by deleting "executive director of the Office of Coal County Development in".
- On page 1, line 20, by removing brackets and strikethroughs from "secretary of".
- On page 1, line 23, by deleting "executive director of the Office of Coal County Development in".
- On page 1, line 23, by removing brackets and strikethroughs from "secretary of".
- On page 2, line 1, by deleting "executive director".
- On page 2, line 1, by removing brackets and strikethroughs from "secretary".
- On page 2, line 4 through 5, by deleting "executive director".
- On page 2, line 5, by removing brackets and strikethroughs from "secretary".
- On page 2, line 6, by deleting "executive director".
- On page 2, line 6, by removing brackets and strikethroughs from "secretary".
- On page 2, line 19, by deleting "executive director of the Office of Coal County Development in".
- On page 2, line 19, by removing brackets and strikethroughs from "secretary of".
- On page 2, line 25, by deleting "Executive Director of the Office of Coal County Development in".
- On page 2, line 25, by inserting "secretary of" after "The".
- On page 3, line 14 through line 15, by deleting "executive director of the Office of Coal County Development in".
- On page 3, line 15, by removing brackets and strikethroughs from "secretary of".
- On page 6, line 19 through line 20, by deleting "Office of Coal County Development in the".
- On page 6, line 23 through line 24, by deleting "executive director of the Office of Coal County Development in".
- On page 6, line 24, by removing brackets and strikethroughs from "secretary of".
- On page 6, line 27 through page 7, line 1, by deleting "executive director of the Office of Coal County Development in".
- On page 7, line 1, by removing brackets and strikethroughs from "secretary of".
- On page 60, line 7, though line 10, by deleting Section 26.
- On page 60, line 11, by deleting "27" and inserting "26" after "Section".

Floor Amendment No. 1 to the Committee Substitute to **HB 448**, by Representative Jenkins:

- On page 9, line 9, after the period, by inserting: "An examination under this section shall apply only to an examination of a victim.".

Floor Amendment No. 2 to the Committee Substitute to **HB 73**, by Representative Bather:

- On page 5, line 27 by deleting "seven (7)" and inserting in lieu thereof "twenty-four (24) hours"; and
- On page 6, line 1 by deleting "days" and adding ",unless the payment was the final payment in a paydown option. Paydown option customers shall not be subject to the twenty-four (24) hour stay in new deferred deposit transactions".

Floor Amendment No. 3 to the Committee Substitute to **HB 73**, by Representative Bather:

- On page 1, after line 25 by adding:

"(11) "Paydown option" means a method of repayment of a deferred deposit transaction through a payment plan not to exceed a total of three (3) payments, every two (2) weeks, for a period of time not to exceed six (6) weeks, whereby the balance of the initial transaction decreases."
- On page 3, line 8 after "(3)" and before "A" by inserting "(a) Except as set forth in paragraph (b) of this subsection";
- On page 3, line 13 after "days" but before the period by adding:

"; and

(b) A deferred deposit service business shall offer a paydown option as defined in Section 1 of this Act, to customers based on a decrease in the fee to be paid per one hundred dollars (\$100) advanced to the customer, as follows:

- 1. The initial fee shall be fifteen dollars (\$15) per one hundred dollars (\$100) advanced to the customer;**
- 2. After the first payment, the fee shall be fifteen dollars (\$15) per one hundred dollars (\$100) regarding the remaining balance of the initial deferred deposit transaction;**
- 3. After the second payment, the fee shall be fifteen dollars (\$15) per one hundred dollars (\$100) regarding the remaining balance of the initial deferred deposit transaction; and**
- 4. After the third payment, the fee shall be fifteen dollars (\$15) per one hundred dollars (\$100) regarding the remaining balance of the initial deferred deposit transaction";**

On page 5, line 19 after "transaction" and before "shall" by inserting "**and paydown option**";

On page 6, line 1 after "**days**" and before the period by inserting "**, unless the payment was the final payment in a paydown option. Paydown option customers shall not be subject to the seven (7) day stay in new deferred deposit transactions**".

Floor Amendment No. 2 to the Committee Substitute to **HB 507**, by Representative Anderson:

On page 2, at line 22, by bracketing and striking through the words "who shall be absent from the county on any election day"; and

On page 2, at line 27, after the word "Elections", by inserting "**, and may vote at any time during normal business hours on at least any of the twelve (12) working days before the election up to the close of business hours on the day before the election**"

On page 7, at line 4, by bracketing and striking through the words "who shall be absent from the county on election day, but".

Floor Amendment No. 1 to the Committee Substitute to **HB 334**, by Representative J. Adams:

On page 4, line 17 by deleting the words "**three (3)**" and by inserting in lieu thereof "**four (4)**"; and

On page 5, line 3, after the word "**superseded**" by inserting "**except as provided in subsection (3) of this section**"; and

On page 5, line 10 by deleting the words "**discriminate against**" and by inserting in lieu thereof "**differentiate**"; and

On page 5, line 13 after the words "**of this Act**," by inserting "**from other residential housing**"; and

On page 5, line 19, after the word "**section**" by adding "**or to require a final inspection of any manufactured home for the purpose of insuring that no damage has occurred during transportation or assembly of the manufactured home that could compromise its structural integrity**".

Floor Amendment No. 3 to **HB 405**, by Representative Vincent:

Beginning on page 30 and continuing on page 31, by deleting Section 18 in its entirety and renumbering the subsequent sections accordingly.

Floor Amendment No. 4 to **HB 405**, by Representative Vincent:

Beginning on page 30 and continuing on page 31, by deleting Section 18 in its entirety and inserting the following in lieu thereof:

"Section 18. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

- (1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.
- (2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one (1) person as the result of one (1) accident shall be ten thousand dollars (\$10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."
- (3) "Basic reparation insured" means:
 - (a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

- (b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.
- (4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.
- (5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.
- (a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, licensed ambulance services, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars (\$1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.
- (b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.
- (c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.
- (d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.
- (e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.
- (6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include:
- (a) Conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or
- (b) Conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.
- (7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.
- (8) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.
- (10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.
- (11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.
- (12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to

the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

- (13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.
- (14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.
- (15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.
- (16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.
- (17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle."

Floor Amendment No. 1 to **HB 647**, by Representative Bratcher:

On Page 10, line 15, before the period by inserting:

" , except within the first one hundred eighty days (180) after the certification of the election approving a consolidated government. During this period, new cities may be incorporated within those areas of the county which were unincorporated prior to the election.

Floor Amendment No. 2 to **HB 647**, by Representative Bratcher:

On Page 10, line 15, before the period by inserting:

" , except within the first one hundred eighty days (180) after the certification of the election approving a consolidated government. During this period, new cities may be incorporated within those areas of the county which were unincorporated and in that area which was contained within the jurisdictional boundaries of the city of the first class prior to the election.

Floor Amendment No. 3 to **SB 40**, by Representative Fischer:

On page 9, after line 17, by inserting:

"(3) Nothing in this section shall be construed as creating a private cause of action with respect to the violation of any duties created in this section.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

- HB 12:** Representative Crenshaw
- HB 23:** Representative Burch
- HB 123:** Representative Horlander
- HB 334:** Representative Colter
- HB 538:** Representative Tapp
- HB 573:** Representative Bowling
- HB 588:** Representatives Bruce, Reinhardt, Sims, Thompson
- HB 606:** Representatives Anderson, Burch, Hoffman, Horlander, Jenkins, Jordan
- HB 657:** Representative Stumbo

The following member has filed a request to have her name withdrawn as co-sponsor of a Bill under rules previously suspended:

- HB 612:** Representative Sims

Announcements

The following meetings were announced:

Appropriations and Revenue, February 10, 2000, upon adjournment and February 14, 2000, 2:00 p.m.

Budget Review Subcommittee on Justice, February 14, 2000, noon

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., February 14, 2000.

The motion that the House adjourn until 4:00 p.m., February 14, 2000, was adopted by voice vote.

FEBRUARY 14, 2000
TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jackson R. Brewer, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Anderson, C. Belcher, Heleringer, Reinhardt, and Walton.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 10, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 665, by Representatives McKee and C. Belcher: AN ACT relating to agriculture.

HB 666, by Representatives McKee and C. Belcher: AN ACT relating to agriculture.

HB 667, by Representative Stacy: AN ACT relating to mental health.

HB 668, by Representative Thompson: AN ACT relating to school finance.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **SB 123, SB 139**

Appropriations and Revenue: **HB 657, HB 658, HB 660, HB 664, SB 80, SB 86**

Banking and Insurance: **HB 649, HB 662**

Health and Welfare: **HB 661, SB 128**

Judiciary: **HB 648, HB 654, HB 655, SB 36, SB 47, SB 107**

Labor and Industry: **HB 659**

Licensing and Occupations: **HB 663**

Local Government: **HB 650, HB 656**

Natural Resources and Environment: **HB 652, SB 105**

State Government: **HJR 99, SB 114**

Tourism Development and Energy: **HB 651**

Transportation: **HB 653**

Posting of Bills for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 554, HB 625, SB 39**

Banking and Insurance: **HB 551, HB 608**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 47**, with Committee Substitute attached thereto, and **HB 410**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Calendar

HB 209, HB 287, HB 330, HB 588, HB 62, HB 244, HB 252, HB 275, HB 314, HB 334, HB 359, HB 360, HB 397, HB 431, HB 438, HB 371, HB 343, HB 445, HB 453, HB 595, HB 203, HB 386, HB 501, HB 59, HB 130, HB 220, HB 402, and HB 475 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

The Committee on Rules reported that **HB 392, HB 429, HB 450, HB 398, HB 407, HB 482, HB 483, HB 486, HB 499, HB 503, HB 505, HJR 9, HJR 15, HCR 35, HCR 36, HCR 37, HJR 70, HJR 72, HJR 76, SCR 16, HB 59, HB 62, HB 203, HB 209, HB 244, HB 252, HB 275, HB 287, HB 314, HB 330, HB 334, HB 343, HB 359, HB 360, HB 371, HB 397, HB 402, HB 431, HB 438, HB 445, and HB 501** have been posted for passage in the Orders of the Day for February 15, 2000.

Report On Enrolled Bills

HB 98, HB 129, HB 160, HB 164, HB 214, HB 215, HB 232, HB 242, HB 250, HB 266, HB 312, and HB 357 delivered to the Senate and signed by the President. Delivered to the Governor on February 14, 2000, at 4:27 p.m..

Orders of the Day

HB 424 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 424** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 14, 2000 roll call on **HB 424** - Appendix.)

HB 424 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 424** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 53 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HCR 53** be adopted.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 14, 2000 roll call on **HCR 53** - Appendix.)

HCR 53 was adopted.

Representative Barrows moved that the vote by which **HCR 53** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 73, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 73**. Agreed.

Representative Rasche moved that **HB 73**, by way of Committee Substitute, be passed.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **HB 73**. Agreed.

Representative Rasche moved that **HB 73**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 58, Nays 34**. (See February 14, 2000 roll call on **HB 73** - Appendix.)

HB 73, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 73**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 454 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 454** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 14, 2000 roll call on **HB 454** - Appendix.)

HB 454 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 454** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 141, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 141**. Agreed.

Representative L. Clark moved that **HB 141**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 14, 2000 roll call on **HB 141** - Appendix.)

HB 141, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 141**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 206, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 206**. Agreed.

Representative Graham moved that **HB 206**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 14, 2000 roll call on **HB 206** - Appendix.)

HB 206, by way of Committee Substitute, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 206**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 346, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palmer moved the adoption of Committee Amendment No. 1 to **HB 346**. Agreed.

Representative Palmer moved that **HB 346**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 14, 2000 roll call on **HB 346** - Appendix.)

HB 346, as amended, was passed and the title agreed to.

Representative Palmer moved that the vote by which **HB 346**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 417, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of Floor Amendment No. 1 to **HB 417**. Agreed.

Representative R. Adams moved that **HB 417**, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 1**. (See February 14, 2000 roll call on **HB 417** - Appendix.)

HB 417, as amended, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 417**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **HB 468**. Agreed.

Representative Coleman moved that **HB 468**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 5**. (See February 14, 2000 roll call on **HB 468** - Appendix.)

HB 468, by way of Committee Substitute, was passed and the title agreed to.

Representative Coleman moved that the vote by which **HB 468**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 491, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of the Committee Substitute to **HB 491**. Agreed.

Representative J. Adams moved that **HB 491**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 14, 2000 roll call on **HB 491** - Appendix.)

HB 491, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 491**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 497 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 497** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 14, 2000 roll call on **HB 497** - Appendix.)

HB 497 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 497** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 12 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 12** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 14, 2000 roll call on **HCR 12** - Appendix.)

HCR 12 was adopted.

Representative Stumbo moved that the vote by which **HCR 12** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 73, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HJR 73**. Agreed.

Representative Westrom moved that **HJR 73**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 14, 2000 roll call on **HJR 73** - Appendix.)

HJR 73, by way of Committee Substitute, was adopted and the title agreed to.

Representative Weaver moved that the vote by which **HJR 73**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 81 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 81** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0.** (See February 14, 2000 roll call on **HCR 81** - Appendix.)

HCR 81 was adopted.

Representative Stumbo moved that the vote by which **HCR 81** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 39, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HJR 39**. Agreed.

Representative Stumbo moved that **HJR 39**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 14, 2000 roll call on **HJR 39** - Appendix.)

HJR 39, by way of Committee Substitute, was adopted.

Representative Stumbo moved the adoption of the Committee Amendment No. 1 Title to **HJR 39**. Agreed; and the title was agreed to.

Representative Stumbo moved that the vote by which **HJR 39**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m. on February 15, 2000. Agreed.

Representative Stumbo moved that **HB 643** and **HB 572** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 554**, **HB 625**, **HB 1**, and **SB 39** be waived. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 669, by Representatives Johns, D. D. Butler, Siler, Bratcher, Jenkins, Anderson, Gray, and Hoover: AN ACT relating to school-based decision making councils.

HB 670, by Representatives Johns, Burch, and Coleman: AN ACT relating to administrative authority.

HB 671, by Representative Riggs: AN ACT relating to crimes and punishments.

HB 672, by Representative Riggs: AN ACT relating to the registration of motor vehicles in counties required to have a vehicle emission control program.

HB 673, by Representative Simpson: AN ACT relating to alcoholic beverages.

HB 674, by Representative Simpson: AN ACT relating to retirement.

HB 675, by Representatives D. D. Butler, Johns, Siler, L. Belcher, and Hoffman: AN ACT relating to retirement.

HB 676, by Representative Marzian: AN ACT relating to the Kentucky Board of Nursing.

HB 677, by Representative Haydon: AN ACT relating to real estate brokerage.

HB 678, by Representative Bratcher: AN ACT relating to crimes and punishments.

HB 679, by Representative Adkins: AN ACT relating to revenue and taxation.

HB 680, by Representatives Gooch and Graham: AN ACT relating to health insurance.

HB 681, by Representative Lindsay: AN ACT relating to the school to careers program.

HB 682, by Representative Lindsay: AN ACT relating to civil actions.

HB 683, by Representative Lindsay: AN ACT relating to civil actions.

HB 684, by Representative Lindsay: AN ACT relating to civil actions.

HB 685, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 686, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 687, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 688, by Representative A. Arnold: AN ACT relating to area development districts.

HB 689, by Representative Moberly: AN ACT relating to audits of school district cooperatives and school districts.

HB 690, by Representative Stein: AN ACT relating to crimes and punishments.

HB 691, by Representative Haydon: AN ACT relating to highways.

HB 692, by Representatives Cherry and Geveden: AN ACT relating to the Board of Claims.

HB 693, by Representative Cherry: AN ACT relating to tourism signage.

HB 694, by Representatives Cherry and Geveden: AN ACT relating to the Crime Victims Compensation Board.

HJR 100, by Representative Worthington: A JOINT RESOLUTION directing the Transportation Cabinet to name United States Route 68 from Lexington to Maysville the "Simon Kenton Highway".

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 593, SB 57, SCR 15**

Banking and Insurance: **HB 634, HB 621**

Tourism Development and Energy: **HB 361**

Education: **HB 631, HB 640, HB 641**

Appropriations and Revenue: **HB 4, HB 180**

Natural Resources and Environment: **HB 579**

Local Government: **HB 190, HB 604, HB 609, HB 645, SB 14**

Labor and Industry: **HB 620, HB 644**

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 556** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 556, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.500 is amended to read as follows:

- (1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum from the date the certificate of delinquency is issued. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.
- (2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:
 - (a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.
 - (b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.
 - (c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.
 - (d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.
 - (e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.
- (3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.
- (4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted

from the taxes due the taxing districts. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

- (5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.
- (6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.
- (7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.
- (8) *The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.*

Motions, Petitions and Communications (Continued)

Representative Moberly moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Moberly moved the adoption of the following **HR 96**:

HR 96, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jamie Ann Morton-Paul.

With deepest respect and admiration, we pay homage and tribute to Jamie Ann Morton-Paul, and we pause in silent reverence for her soul.

WHEREAS, Jamie Ann Morton-Paul was born on May 25, 1963, a native of Bowling Green, Warren County, Kentucky, and resident of Lawrenceburg, Kentucky; and she traversed these earthly bounds on November 3, 1999; and

WHEREAS, Jamie Ann Morton-Paul was the loving daughter of Jim and Doris Morton of Bowling Green, Kentucky; she was the devoted wife of Steven J. Paul of Lawrenceburg, Kentucky; and she was the adored granddaughter of Katherine Walker of Earlington, Kentucky; and

WHEREAS, Jamie Ann Morton-Paul graduated from Western Kentucky University; she had a distinguished career in journalism and public relations as Communications Director for the Kentucky Education Association for nine years, and she worked tirelessly to promote public education and the teaching profession in the Commonwealth; her advocacy to public education, as well as her love for children, will never be forgotten, and her spirit, strength, and courage will live on in the hearts of all the lives she has touched; and

WHEREAS, the passing of Jamie Ann Morton-Paul has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Jamie Ann Morton-Paul, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Jamie Ann Morton-Paul.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Jim Morton, 1110 Cheyenne Drive, Bowling Green, Kentucky 42104.

There being no objection **HR 96** was adopted.

Representative Nunn moved that **HB 425** be withdrawn. Agreed.

Representative Thomas moved that **HB 66** be withdrawn. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 331**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 1 to **HB 331**. Agreed.

Representative Draud moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Draud moved that he be recorded as voting "yea" on **HB 12**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Damron moved that he be recorded as voting "yea" on **HB 454**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 130**, by Representative Vincent:

On page 1, line 19, by deleting "and"; and

On page 1, line 22, by deleting the period, ".", and inserting in lieu thereof "; and"; and

On page 1, by inserting the following between lines 22 and 23:

"(g) The exchange of information among public agencies for any authorized purpose."

Floor Amendment No. 1 to the Committee Substitute to **HB 386**, by Representative Treesh:

On page 8, line 16 by adding after (10) "Fail to notify the director in writing of any knowledge of" and by deleting "Receive milk from a permitted producer whose milk is stored in"

On page 9, line 7 by adding after (6), "Fail to notify the director in writing of any knowledge of" and by deleting "Sample, weigh, or measure milk from"

On page 9, line 7 by adding after "or"

On page 10, line 7 by adding after (6), "Fail to notify the director in writing of any knowledge of" and by deleting "Transfer milk that has been sampled and weighed from"

Floor Amendment No. 1 to the Committee Substitute to **HB 410**, by Representative Thomas:

On page 1, line 10, following "a defaced firearm" to insert "and".

Floor Amendment No. 3 to **HB 381**, by Representative Palumbo:

On page 1, line 10, by deleting "executive director of the Office of Coal County Development in".

On page 1, line 10 through 11, by removing brackets and strikethroughs from "secretary of".

On page 1, line 16 through 17, by deleting "executive director of the Office of Coal County Development in".

On page 1, line 17, by removing brackets and strikethroughs from "secretary of".

On page 1, line 19 through 20, by deleting "executive director of the Office of Coal County Development in".

On page 1, line 20, by removing brackets and strikethroughs from "secretary of".

On page 1, line 23, by deleting "executive director of the Office of Coal County Development in".

On page 1, line 23, by removing brackets and strikethroughs from "secretary of".

On page 2, line 1, by deleting "executive director".

On page 2, line 1, by removing brackets and strikethroughs from "secretary".

On page 2, line 4 through 5, by deleting "executive director".

On page 2, line 5, by removing brackets and strikethroughs from "secretary".

On page 2, line 6, by deleting "executive director".

On page 2, line 6, by removing brackets and strikethroughs from "secretary".

On page 2, line 19, by deleting "executive director of the Office of Coal County Development in".

On page 2, line 19, by removing brackets and strikethroughs from "secretary of".

On page 2, line 25 through page 3, line 5, by deleting "The Executive Director of the Office of Coal County Development in the Cabinet for Economic Development may approve an industrial development project for a coalition of a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include one (1) noncoal producing county as approved in subsection (5) of this section. For the purposes of this subsection, industrial development shall include legal, accounting, engineering, and marketing expenses, in addition to activities set forth in subsection (11)(a) of this section.".

On page 2, line 25, by inserting "An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section." after "(6)".

On page 3, line 14 through line 15, by deleting "executive director of the Office of Coal County Development in".

On page 3, line 15, by removing brackets and strikethroughs from "secretary of".

On page 5, line 8, by deleting "and".

On page 6, line 19 through line 20, by deleting "Office of Coal County Development in the".

On page 6, line 22, by deleting ".".

On page 6, line 22, by inserting "; and" after "met".

On page 6, after line 22, insert "(d) \"Regional industrial park\" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section."

On page 6, line 23 through line 24, by deleting "executive director of the Office of Coal County Development in".

On page 6, line 24, by removing brackets and strikethroughs from "secretary of".

On page 6, line 27 through page 7, line 1, by deleting "executive director of the Office of Coal County Development in".

On page 7, line 1, by removing brackets and strikethroughs from "secretary of".

On page 60, line 7, though line 10, by deleting Section 26.

On page 60, line 11, by deleting "27" and inserting "26" after "Section".

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 244: Representative Palmer

HB 439: Representative Cave

HB 477: Representatives Cave, Horlander

HB 521: Representative Marzian

HB 575: Representatives Ausmus, Nesler, Stewart

HB 584: Representative Draud

HB 606: Representatives L. Belcher, Cherry, Geveden, Miller, Stein

HR 73 Representative Colter

Announcements

The following meeting was announced:

Budget Review Subcommittee on Human Services, upon adjournment, February 15, 2000, Room 131

The following meeting was canceled:

Tourism Development and Energy, February 15, 2000

Seniors, Military Affairs, and Public Safety, February 15, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 15, 2000.

The motion that the House adjourn until 2:00 p.m., February 15, 2000, was adopted by voice vote.

TUESDAY, FEBRUARY 15, 2000
TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Nancy Jo Kemper, New Union Christian Church, Versailles.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 14, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Moberly moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Moberly moved the adoption of the following **Legislative Citation No. 59**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the student leaders of the Kentucky Community & Technical College System as they join together on Student Legislative Awareness Day to witness a day in the Kentucky General Assembly for the first time since the passage of House Bill 1. Having been selected by their respective colleges to represent the 46,000 students from the 28 institutions that are part of the Kentucky Community & Technical College System, these remarkable young scholars are commended for the tremendous leadership ability and phenomenal hard work that they have demonstrated in this noteworthy capacity. Inasmuch as the student leaders of KCTCS have labored with great honor and distinction to serve both their peers and the faculty and staff of Kentucky's esteemed technical institutions, the members of this august body are delighted to join with Speaker Jody Richards in applauding these talented students for their dedication and effort and in extending to them best wishes for continued success and good fortune. Done in Frankfort, this fifteenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 59 was adopted without objection.

Introduction of Bills

HB 695, by Representatives McKee, C. Belcher, A. Arnold, Thomas, and Hoffman: AN ACT relating to revenue and taxation.

HB 696, by Representatives McKee, A. Arnold, Thomas, R. Adams, and Hoffman: AN ACT relating to marketing of agricultural products.

HB 697, by Representative Damron: AN ACT relating to state employee health benefits.

HB 698, by Representatives Graham and Barrows: AN ACT relating to retirement.

HB 699, by Representatives Gooch, J. Arnold, Ausmus, Bratcher, and Johns: AN ACT relating to education support personnel.

HB 700, by Representative Westrom: AN ACT relating to diseases in the corrections system and making an appropriation therefor.

HB 701, by Representative Baugh: AN ACT relating to the retail sales of alcoholic beverages.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HB 665**, **HB 666**

Appropriations and Revenue: **HB 679**

Banking and Insurance: **HB 680**

Education: **HB 668, HB 669, HB 675, HB 681, HB 689**

Health and Welfare: **HB 667, HB 670, HB 676**

Judiciary: **HB 671, HB 678, HB 682, HB 683, HB 684, HB 685, HB 686, HB 687, HB 690**

Licensing and Occupations: **HB 673, HB 677**

Local Government: **HB 672, HB 688**

State Government: **HB 674, HB 692, HB 694**

Tourism Development and Energy: **HB 693**

Transportation: **HB 691, HJR 100**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 246, HB 494, SB 33**

Report of Committees

The Committee on Health and Welfare reported **HB 296**, with Committee Substitute attached thereto, **HB 345**, and **HB 474**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 296, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:
 - (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - (b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - (c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);
 - (d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 - (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 - (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 - (g) Abandons or exploits the child; or
 - (h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
- (2) **"Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided for in KRS 158.150, and as documented in writing by the school, except that no child shall be brought before the court as accused of being beyond the control of school unless the school demonstrates by a sworn affidavit that, in regard to that child, the school has complied with the provisions of KRS 158.150 and all regulations promulgated thereunder, and 20 U.S.C. sec. 1401 et seq.;**

- (3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
- (4) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (5)~~((3))~~ "Cabinet" means the Cabinet for Families and Children;
- (6)~~((4))~~ "Certified juvenile ~~holding~~ facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (7)~~((5))~~ "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;
- (8)~~((6))~~ "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (9)~~((7))~~ "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (10)~~((8))~~ "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (11)~~((9))~~ "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;
- (12)~~((10))~~ "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (13)~~((11))~~ "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (14)~~((12))~~ "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (15)~~((13))~~ "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (16)~~((14))~~ "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (17)~~((15))~~ "Department" means the Department for Social Services;
- (18)~~((16))~~ "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (19) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection~~((17))~~ "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;
- (20) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (21)~~((18))~~ "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;
- (22)~~((19))~~ "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (23)~~((20))~~ "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as

evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

- (24)((21)) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- (25)((22)) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (26)((23)) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- (27)((24)) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;
- (28)((25)) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150 three (3) or more times~~absent from school without valid excuse for three (3) or more days~~ during a one (1) year period~~or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period~~;
- (29)((26)) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (30)((27)) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (31)((28)) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (32)((29)) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (33)((30)) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;
- (34)((31)) "Juvenile holding facility" means a secure juvenile detention facility~~physically secure setting~~, approved by the Department of Juvenile Justice, which is an entirely separate~~facility or~~ portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile~~holding~~ facility staff to provide twenty-four (24) hours per day supervision~~Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners~~;
- (35)((32)) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;
- (36)((33)) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (37)((34)) ""Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (38)((35)) "Needs of the child" means necessary food, clothing, health, shelter, and education.
- (39)((36)) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (40) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed under the supervision of the Department of Juvenile Justice while in the detention custody of the Department of Juvenile Justice;
- (41)((37)) "Parent" means the biological or adoptive mother or father of a child;
- (42)((38)) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (43)((39)) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (44)((40)) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (45) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as

locks, bars, and fences to restrict freedom;

- ~~(46)~~~~((41))~~ "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- ~~(47)~~~~((42))~~ "Qualified mental health professional" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- ~~(48)~~~~((43))~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- ~~(49)~~~~((44))~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- ~~(50)~~~~((45))~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;
- ~~(51)~~~~((46))~~ "Secretary" means the secretary of the Cabinet for Families and Children;
- ~~(52)~~~~((47))~~ "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than an~~[a jail, police station, lockup,]~~ intermittent holding facility~~[, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined];~~
- ~~(53)~~~~((48))~~ "Staff Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- ~~(54)~~~~((49))~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- ~~(55)~~~~((50))~~ "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- ~~(56)~~~~((51))~~ "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;
- ~~(57)~~~~((52))~~ "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;
- ~~(58)~~~~((53))~~ "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(59) "Valid court order" means a court order issued by a judge to a child:

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings ; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.

~~(60)~~~~(54)~~ "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

~~(61)~~~~(55)~~ "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

~~(62)~~~~(56)~~ "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 610.100 is amended to read as follows:

- (1) Unless there is a suitable prior disposition investigation report or unless waived by the child who is represented by counsel, before making disposition of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made concerning the nature of the specific act complained of and any surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation, and everything that may pertain to his life, and character. The investigation shall also include an inquiry into the home conditions, life, and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation shall be reported in writing to the court and to counsel for the parties three (3) days prior to the child's dispositional hearing and shall become a part of the record of the proceedings. The child may waive the three (3) day requirement. Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.
- (2) The investigation shall be conducted by ~~volunteer or salaried probation officers of the juvenile court or by~~ a suitable public or private agency. The cabinet and the Department of Juvenile Justice may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his county with the Department of Juvenile Justice or the cabinet for the furnishings of such services.
- (3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings and with the victim and with those persons specified in KRS 610.070 having prior notification of the motion.

Section 3. KRS 610.220 is amended to read as follows:

- (1) If an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, a nonsecure facility, ~~the offices of the court designated worker,~~ or, as necessary, in a hospital or clinic for the following purposes:
 - (a) Identification and booking;
 - (b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;
 - (c) Photographing;
 - (d) Fingerprinting;
 - (e) Physical examinations, including examinations for evidence;
 - (f) Evidence collection, including scientific tests;
 - (g) Records checks;
 - (h) Determining whether the child is subject to trial as an adult; and
 - (i) Other inquiries of a preliminary nature.
- (2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type ~~in facilities~~ listed in subsection (1) of this section except for an intermittent

holding facility for the period of retention.

- (3) Any child held in custody pursuant to this section shall be sight and sound separated from any adult prisoners held in secure custody at the same location.

Section 4. KRS 610.265 is amended to read as follows:

- (1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a ~~status or~~ public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays pending a detention hearing.
- (2) (a) Within twenty-four (24) hours of the start of the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.
- (b) If the court orders ~~a [the]~~ child detained further, ~~and~~ after the detention hearing, that detention shall be served as follows:
1. If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.
 2. If it is alleged that the child is a status offender, detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.
 3. If a status offender is charged with violating a valid court order, and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph.
 4. Prior to ordering a status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:
 - a. Affirm that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;
 - b. Make a determination during the detention hearing that there is probably cause to believe that the child violated the valid court order; and
 - c. Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receive an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receive and review a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing upon receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.
 5. If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.
 6. If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide

~~detention plan, the child~~ Any other child ordered to be detained in a state-operated facility pursuant to the statewide detention plan shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. ~~[The security assessment shall be done at the facility where the juvenile is initially detained]~~

- (c) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 5. KRS 610.280 is amended to read as follows:

- (1) ~~(a) If a child is detained pursuant to KRS 610.265 for the alleged commission of a public offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty four (24) hours, exclusive of weekends and holidays, of the commencement of detention if the child is detained in an intermittent holding facility. If the child is detained in a secure juvenile detention facility or a juvenile holding facility, then a hearing shall be held as soon as practical, but not to exceed forty eight (48) hours, exclusive of weekends and holidays, of the commencement of detention.~~

- ~~(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty four (24) hours, exclusive of weekends and holidays, of the commencement of detention.~~

- (2) At the detention ~~[The]~~ hearing held pursuant to Section 4 of this Act, the court shall make separate findings as follows ~~[shall address the following issues]:~~

- (a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof, and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case; ~~and~~

- (b) If probable cause is found, whether the child should be returned to the court designated worker for diversion, released to the child's parents or legal guardians, or further detained. In determining whether a child should be diverted, released, or further detained ~~[detention]~~, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child. ~~[Any child ordered to be detained in a state-operated facility pursuant to the statewide detention plan shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be done at the facility where the juvenile is initially detained]~~

- (3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 6. KRS 610.290 is amended to read as follows:

- (1) Unless a hearing is held within twenty-four (24) hours, exclusive of weekends and holidays, and the necessity for detention properly established, the child shall be released to the custody of his parents, person exercising custodial control or supervision or other responsible adult pending further disposition of the case. A child shall have a right to counsel at his detention hearing determining his right to freedom pending the disposition of his case, and his parents, person exercising custodial control or supervision or other responsible adult shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the Circuit Court.
- (2) Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, person exercising custodial control or supervision or other responsible adult shall be given written notice of the time and place of the adjudicatory hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 7. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding status offenders:

- (1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for status offenders which reflect their individual needs;
- (2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred;
- (3) Status offenders shall not be detained ~~[Detention of status offenders]~~ in secure juvenile detention facilities or juvenile holding facilities after the initial detention hearing. Any period of secure detention prior to the detention hearing shall

~~not exceed twenty-four (24) hours, exclusive of weekends and holidays; [should only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible; and]~~

(4) **Status offenders accused of violating a valid court order shall not be securely detained in intermittent holding facilities; and**

(5) **Status offenders accused of or found guilty of violating a valid court order** ~~[Status offenders]~~ shall not be converted into public offenders by virtue of ~~this [status]~~ conduct.

Section 8. KRS 630.040 is amended to read as follows:

Any person taking a child into custody, with all reasonable speed, shall in this sequence:

- (1) Deliver the child suffering from a physical condition or illness which requires prompt medical treatment to a medical facility or physician. Children suspected of having a mental or emotional illness shall be evaluated in accordance with the provisions of KRS Chapter 645;
- (2) Contact a court designated worker who shall have the responsibility for determining appropriate placement pursuant to KRS 610.200(5);
- (3) If the court designated worker determines that the placements designated in KRS 610.200(5) and subsection (1) of this section have been exhausted **or are not appropriate**, a child may be delivered to a secure juvenile detention facility, ~~a [or] juvenile holding facility,~~ **or a nonsecure setting approved by the Department of Juvenile Justice pending the detention hearing;**
- (4) When the child has not been released to his parents or person exercising custodial control or supervision, the person taking the child into custody shall make a reasonable effort promptly to give oral notice to the parent or person exercising custodial control or supervision of the child;
- (5) In all instances the peace officer taking a child into custody shall provide a written statement to the court designated worker of the reasons for taking the child into custody;
- (6) If the child is placed in an emergency shelter or medical facility, during the adjudication and disposition of his case, the court may order his parents to be responsible for the expense of his care; and
- (7) The peace officer taking the child into custody shall within three (3) hours of taking a child into custody file a complaint with the court, stating the **basis for taking the child into custody** ~~[status offense charged by KRS number]~~ and the reason why the child was not released to the parent or other adult exercising custodial control or supervision of the child, relative or other responsible adult, a court designated agency, an emergency shelter or medical facility. Pending further disposition of the case, the court or the court designated worker may release the child to the custody of any responsible adult who can provide adequate care and supervision.

Section 9. KRS 630.070 is amended to read as follows:

No ~~status offender [child]~~ shall be placed in a secure juvenile detention facility or juvenile holding facility as a means or form of punishment except following a finding that **the child has violated a valid court order** ~~[he is in contempt of court. When a child is detained for the alleged commission of a status offense, a detention hearing shall be held as soon as is practical, but within forty-eight (48) hours of the detention, exclusive of weekends and holidays].~~

Section 10. KRS 630.080 is amended to read as follows:

(1) In order for the court to detain ~~a [the] child in [a secure juvenile detention facility or juvenile holding facility]~~ after the ~~detention hearing [twenty-four (24) hour period]~~, the Commonwealth shall establish probable cause at the detention hearing that **the child is a status offender and that further detention of the child is necessary for the protection of the child or the community** ~~[a status offense has been committed and that the child committed the offense].~~ If the Commonwealth fails to establish **probable cause that the child is a status offender** ~~[these grounds]~~, the complaint shall be dismissed and the child shall be released. **If the Commonwealth establishes probable cause that the child is a status offender, but that further detention of the child is not necessary for the protection of the child or the community, the child shall be released to the parent or person exercising custodial control or supervision of the child.** ~~If [the] grounds are established that the child is a status offender, and that further detention is necessary, the child may be placed in a nonsecure setting approved by the Department of Juvenile Justice [held in a secure juvenile detention facility or juvenile holding facility, as provided in subsection (3) of KRS 630.040, pending an adjudicatory hearing only if the Commonwealth shows probable cause to believe one (1) of the following:~~

- ~~(1) All alternatives to secure detention have been exhausted;~~
- ~~(2) The child has, within the last year, failed to appear at court hearings and requires detention to assure his presence at subsequent hearings;~~
- ~~(3) The child has run away from a secure or nonsecure facility;~~
- ~~(4) The child has run away from his home, and his parent, guardian, or person exercising similar custodial control or supervision of the child has orally agreed to assume physical custody or pay for his transportation within forty-eight (48)~~

hours. The child may on his own motion present to the court reasons why he should not be returned to his parents or person exercising similar custodial control or supervision of the child. Upon consideration of such motion or if the parents refuse to assume custody of the child, the court may in its discretion place the youth in a nonsecure facility and concurrently order that a protective services investigation be commenced as allowed by KRS Chapter 620;

~~(2)(5)~~ A status offender may be securely detained if the cabinet has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to KRS Chapter 615; or

(3) A status offender who is subject to a valid court order may be securely detained upon a finding that the child violated the valid court order if the court does the following prior to ordering that detention:

(a) Affirms that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;

(b) Makes a determination during the detention hearing that there is probably cause that the child violated the valid court order; and

(c) Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receives an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receives and reviews a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing upon receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a child in need of services.

~~[(6) The child is a danger to himself or others, unless he is suspected of having a mental or emotional illness and requires medical attention in which case the provisions of KRS Chapter 645 shall be followed.]~~

Section 11. KRS 630.100 is amended to read as follows:

Except as otherwise provided in this chapter, no adjudicated status offender shall be securely detained ~~held in a secure juvenile detention facility or juvenile holding facility as provided in KRS 630.040 pending disposition for a period exceeding ten (10) days after the adjudicatory hearing, unless waived by the child and the court considers it in the child's best interest. A child shall not be held in a secure juvenile detention facility or juvenile holding facility more than ten (10) days after the exercise of this waiver.~~

Section 12. KRS 630.120 is amended to read as follows:

(1) All dispositional hearings conducted under this chapter shall be conducted in accordance with the provisions of KRS 610.060 and 610.070. In addition, the court shall, at the time the dispositional order is issued:

(a) Give the child adequate and fair warning of the consequences of the violation of the order; and

(b) Provide the child and the child's attorney, parent, or legal guardian a written statement setting forth the conditions of the order and the consequences for violating the order.

An order issued pursuant to this section is a valid court order and any child violating that order may be subject to the provisions of subsection (3) of Section 10 of this Act. ~~[The general conduct of the dispositional hearings under this section relating to status offenders shall follow the procedures pursuant to KRS 610.070 and.]~~

(2) The court shall consider all appropriate local remedies to aid the child and the child's ~~his~~ family subject to the following conditions:

(a) Residential and nonresidential treatment programs for status offenders shall be community-based and nonsecure; and

(b) With the approval of the education agency, the court may place the child in a nonsecure public or private education agency accredited by the Department of Education.

~~(3)(2)~~ At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports, may be received by the court provided that the child, the child's ~~his~~ parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause, the court may allow the admission of hearsay evidence.

~~(4)(3)~~ The court shall affirmatively ~~first~~ determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.

~~(5)(4)~~ The court may order the child and the child's[his] family to participate in any programs which are necessary to effectuate a change in the child and the family.

~~(6)(5)~~ When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and the child's[his] family, the court may commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the child[youth] and the child's[his] family subject to the following conditions:

- (a) Treatment programs for status offenders shall be, unless excepted by federal law, community-based and nonsecure;
- (b) The cabinet may place the child in a nonsecure public or private education agency accredited by the department of education;
- (c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and
- (d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court which may object to such discharge by holding court review of the commitment under KRS 610.120.

Section 13. KRS 635.055 is amended to read as follows:

No child who is found to be in contempt of court shall be committed as a public offender as a result of such finding, nor detained because of such finding in a facility other than a secure juvenile detention facility, ~~for~~ juvenile holding facility, or a nonsecure detention alternative.

SECTION 14. A NEW SECTION OF KRS CHAPTER 630 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of KRS Chapter 520 to the contrary, no child accused of being or who has been adjudicated as a status offender or who has been accused of or held in contempt of court based upon an underlying finding that the child is a status offender who is absent without leave from a nonsecure detention option or home detention, or who fails to comply with the conditions of supervised placement, shall be charged with escape for being absent without leave or failing to comply with the conditions of supervised placement.

Section 15. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
 - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 1. A state, county, city, or federal peace officer;
 2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 3. An employee of the Department for Social Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or
 4. A probation and parole officer; or
 - (b) Being a person confined in a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the facility.
- (2) Assault in the third degree is a Class D felony.

Section 16. The following KRS sections are repealed:

- 610.250 Conditional releases.
630.090 Limitations on detention of alleged status offender.
630.110 Conduct of adjudicatory hearing.
630.130 Limitations on detention of status offender after disposition.

The Committee Substitute to **HB 296** is as follows:

HB 296, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent,

guardian, or other person exercising custodial control or supervision of the child:

- (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - (b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - (c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);
 - (d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 - (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 - (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 - (g) Abandons or exploits the child; or
 - (h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
- (2) *"Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;*
- (3) *"Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;*
- (4) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- ~~(5)(3)~~ "Cabinet" means the Cabinet for Families and Children;
- ~~(6)(4)~~ "Certified juvenile ~~holding~~ facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- ~~(7)(5)~~ "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;
- ~~(8)(6)~~ "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- ~~(9)(7)~~ "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- ~~(10)(8)~~ "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- ~~(11)(9)~~ "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;
- ~~(12)(10)~~ "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- ~~(13)(11)~~ "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- ~~(14)(12)~~ "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or

the Circuit Court;

- ~~(15)~~~~(13)~~ "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- ~~(16)~~~~(14)~~ "Deadly weapon" has the same meaning as it does in KRS 500.080;
- ~~(17)~~~~(15)~~ "Department" means the Department for Social Services;
- ~~(18)~~~~(16)~~ "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (19) *"Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection***~~(17) *"Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention*~~;
- (20) *"Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication***;
- ~~(21)~~~~(18)~~ "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;
- ~~(22)~~~~(19)~~ "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- ~~(23)~~~~(20)~~ "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;
- ~~(24)~~~~(21)~~ "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- ~~(25)~~~~(22)~~ "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- ~~(26)~~~~(23)~~ "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- ~~(27)~~~~(24)~~ "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;
- ~~(28)~~~~(25)~~ "Habitual truant" means any child who has been found by the court to have been ***reported as a truant as defined in KRS 159.150 three (3) or more times***~~absent from school without valid excuse for three (3) or more days~~ during a one (1) year period~~or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period~~;
- ~~(29)~~~~(26)~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- ~~(30)~~~~(27)~~ "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- ~~(31)~~~~(28)~~ "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- ~~(32)~~~~(29)~~ "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- ~~(33)~~~~(30)~~ "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, ***in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and*** in which children are supervised and observed on a regular basis ***by certified juvenile facility staff***;
- ~~(34)~~~~(31)~~ "Juvenile holding facility" means a ***secure juvenile detention facility***~~physically secure setting~~, approved by the Department of Juvenile Justice, which is an entirely separate~~facility or~~ portion or wing of a building containing an adult jail, which provides total ***sight and sound*** separation between juvenile and adult facility spatial areas and which is staffed

by sufficient certified juvenile ~~holding~~ facility staff to provide twenty-four (24) hours per day supervision ~~Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners~~;

- (35)(32) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;
- (36)(33) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (37)(34) "'Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (38)(35) "Needs of the child" means necessary food, clothing, health, shelter, and education.
- (39)(36) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (40) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- (41)(37) "Parent" means the biological or adoptive mother or father of a child;
- (42)(38) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (43)(39) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (44)(40) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (45) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- (46)(41) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- (47)(42) "Qualified mental health professional" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- (48)(43) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- (49)(44) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- (50)(45) "School personnel" means those certified persons under the supervision of the local public or private education

agency;

~~(51)((46))~~ "Secretary" means the secretary of the Cabinet for Families and Children;

~~(52)((47))~~ "Secure juvenile detention facility" means any **physically secure** facility used for the secure detention of children other than ~~an~~~~[a jail, police station, lockup,]~~ intermittent holding facility~~[, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined];~~

~~(53)((48))~~ "**Staff** Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

~~(54)((49))~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

~~(55)((50))~~ "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

~~(56)((51))~~ "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

~~(57)((52))~~ "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

~~(58)((53))~~ "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

~~(59)~~ **"Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:**

~~(a)~~ **Who was brought before the court and made subject to the order;**

~~(b)~~ **Whose future conduct was regulated by the order;**

~~(c)~~ **Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings ; and**

~~(d)~~ **Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.**

~~(60)((54))~~ "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

~~(61)((55))~~ "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

~~(62)((56))~~ "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be

deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(b) *Is beyond the control of the school or beyond the control of parents as defined in Section 1 of this Act*~~Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;~~

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

- (2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.
- (3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.
- (4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.
- (5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.
- (6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.
- (7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence or the county wherein the offense was committed, as the case may be.
- (8) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.
- (9) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.
- (10) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.
- (11) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 3. KRS 610.100 is amended to read as follows:

- (1) Unless there is a suitable prior disposition investigation report or unless waived by the child *who is represented by counsel*, before making disposition of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made concerning the nature of the specific act complained of and any surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation, and everything that may pertain to his life, and character. The investigation shall also include an inquiry into the home conditions, life, and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation shall be reported in writing to the court and to counsel for the parties three (3) days prior to the child's dispositional hearing and shall become a part of the record of the proceedings. The child may waive the three (3) day requirement. Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.

- (2) The investigation shall be conducted by ~~volunteer or salaried probation officers of the juvenile court or by~~ a suitable public or private agency. The cabinet and the Department of Juvenile Justice may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his county with the Department of Juvenile Justice or the cabinet for the furnishings of such services.
- (3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings and with the victim and with those persons specified in KRS 610.070 having prior notification of the motion.

Section 4. KRS 610.220 is amended to read as follows:

- (1) If an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, a nonsecure facility, ~~the offices of the court designated worker,~~ or, as necessary, in a hospital or clinic for the following purposes:
- Identification and booking;
 - Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;
 - Photographing;
 - Fingerprinting;
 - Physical examinations, including examinations for evidence;
 - Evidence collection, including scientific tests;
 - Records checks;
 - Determining whether the child is subject to trial as an adult; and
 - Other inquiries of a preliminary nature.
- (2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type ~~in facilities~~ listed in subsection (1) of this section except for an intermittent holding facility for the period of retention.
- (3) Any child held in custody pursuant to this section shall be sight and sound separated from any adult prisoners held in secure custody at the same location.

Section 5. KRS 610.265 is amended to read as follows:

- (1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing ~~a status or~~ public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays pending a detention hearing.
- (2) (a) Within ~~twenty-four (24) hours of the start of~~ the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.
- (b) If the court orders ~~a~~ the child detained further, ~~and~~ after the detention hearing, that detention shall be served as follows:
- If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.
 - If it is alleged that the child is a status offender, detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.
 - If a status offender is charged with violating a valid court order, and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph.
 - Prior to ordering a status offender who is subject to a valid court order securely detained because the

child violated the valid court order, the court shall:

- a. Affirm that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;
 - b. Make a determination during the detention hearing that there is probable cause to believe that the child violated the valid court order; and
 - c. Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receive an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receive and review a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.
5. If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.
6. If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child~~[Any other child ordered to be detained in a state operated facility pursuant to the statewide detention plan]~~ shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.~~[The security assessment shall be done at the facility where the juvenile is initially detained]~~
- (c) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 6. KRS 610.280 is amended to read as follows:

- (1)~~(a)~~ If a child is detained pursuant to KRS 610.265 for the alleged commission of a public offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty four (24) hours, exclusive of weekends and holidays, of the commencement of detention if the child is detained in an intermittent holding facility. If the child is detained in a secure juvenile detention facility or a juvenile holding facility, then a hearing shall be held as soon as practical, but not to exceed forty eight (48) hours, exclusive of weekends and holidays, of the commencement of detention.
- ~~(b)~~ If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty four (24) hours, exclusive of weekends and holidays, of the commencement of detention.
- ~~(2)~~ At the detention~~[The]~~ hearing held pursuant to Section 5 of this Act, the court shall make separate findings as follows~~[shall address the following issues]:~~
- (a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof, and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case;~~[and]~~
 - (b) In determining whether a child should be further detained~~[detention]~~, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child.~~[Any child ordered to be detained in a state operated facility pursuant to the statewide detention plan shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be~~

~~done at the facility where the juvenile is initially detained]~~

- (3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 7. KRS 610.290 is amended to read as follows:

- (1) Unless a hearing is held within twenty-four (24) hours, exclusive of weekends and holidays, and the necessity for detention properly established, the child shall be released to the custody of his parents, person exercising custodial control or supervision or other responsible adult pending further disposition of the case. A child shall have a right to counsel at his detention hearing determining his right to freedom pending the disposition of his case, and his parents, person exercising custodial control or supervision or other responsible adult shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the Circuit Court.
- (2) Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, person exercising custodial control or supervision or other responsible adult shall be given written notice of the time and place of the adjudicatory hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 8. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding status offenders:

- (1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for status offenders which reflect their individual needs;
- (2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred;
- (3) Status offenders shall not be detained~~[Detention of status offenders]~~ in secure juvenile detention facilities or juvenile holding facilities after the initial detention hearing unless the child is accused of, or has an adjudication that the child has violated a valid court order, in which case the child may be securely detained for up to seventy-two (72) hours, exclusive of weekends and holidays, pending receipt of the report required under subsection (3) of Section 12 of this Act. Any period of secure detention prior to the detention hearing shall not exceed twenty-four (24) hours, exclusive of weekends and holidays;~~[should only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible; and]~~
- (4) Status offenders accused of violating a valid court order shall not be securely detained in intermittent holding facilities; and
- (5) Status offenders accused of or found guilty of violating a valid court order~~[Status offenders]~~ shall not be converted into public offenders by virtue of this~~[status]~~ conduct.

Section 9. KRS 630.020 is amended to read as follows:

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

- (1) Has been an habitual runaway from his parent or person exercising custodial control or supervision of the child;
- (2) Is beyond the control of the school or beyond the control of parents as defined in Section 1 of this Act~~[Has not subjected himself to the reasonable control of his parent or guardian or school personnel or person exercising custodial control or supervision of the child]; or~~
- (3) Has been an habitual truant from school.

Section 10. KRS 630.040 is amended to read as follows:

Any person taking a child into custody, with all reasonable speed, shall in this sequence:

- (1) Deliver the child suffering from a physical condition or illness which requires prompt medical treatment to a medical facility or physician. Children suspected of having a mental or emotional illness shall be evaluated in accordance with the provisions of KRS Chapter 645;
- (2) Contact a court designated worker who shall have the responsibility for determining appropriate placement pursuant to KRS 610.200(5);
- (3) If the court designated worker determines that the placements designated in KRS 610.200(5) and subsection (1) of this section have been exhausted or are not appropriate, a child may be delivered to a secure juvenile detention facility, a~~[or]~~ juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the detention hearing;
- (4) When the child has not been released to his parents or person exercising custodial control or supervision, the person taking the child into custody shall make a reasonable effort promptly to give oral notice to the parent or person exercising custodial control or supervision of the child;

- (5) In all instances the peace officer taking a child into custody shall provide a written statement to the court designated worker of the reasons for taking the child into custody;
- (6) If the child is placed in an emergency shelter or medical facility, during the adjudication and disposition of his case, the court may order his parents to be responsible for the expense of his care; and
- (7) The peace officer taking the child into custody shall within three (3) hours of taking a child into custody file a complaint with the court, stating the basis for taking the child into custody~~[status offense charged by KRS number]~~ and the reason why the child was not released to the parent or other adult exercising custodial control or supervision of the child, relative or other responsible adult, a court designated agency, an emergency shelter or medical facility. Pending further disposition of the case, the court or the court designated worker may release the child to the custody of any responsible adult who can provide adequate care and supervision.

Section 11. KRS 630.070 is amended to read as follows:

No status offender~~[child]~~ shall be placed in a secure juvenile detention facility or juvenile holding facility as a means or form of punishment except following a finding that the child has violated a valid court order~~[he is in contempt of court. When a child is detained for the alleged commission of a status offense, a detention hearing shall be held as soon as is practical, but within forty-eight (48) hours of the detention, exclusive of weekends and holidays].~~

Section 12. KRS 630.080 is amended to read as follows:

- (1) In order for the court to detain a~~[the]~~ child~~[in a secure juvenile detention facility or juvenile holding facility]~~ after the detention hearing~~[twenty-four (24) hour period]~~, the Commonwealth shall establish probable cause at the detention hearing that the child is a status offender and that further detention of the child is necessary for the protection of the child or the community~~[a status offense has been committed and that the child committed the offense]. If the Commonwealth fails to establish probable cause that the child is a status offender~~~~[these grounds]~~, the complaint shall be dismissed and the child shall be released. If the Commonwealth establishes probable cause that the child is a status offender, but that further detention of the child is not necessary for the protection of the child or the community, the child shall be released to the parent or person exercising custodial control or supervision of the child. ~~If~~~~[the]~~ grounds are established that the child is a status offender, and that further detention is necessary, the child may be placed in a nonsecure setting approved by the Department of Juvenile Justice~~[held in a secure juvenile detention facility or juvenile holding facility, as provided in subsection (3) of KRS 630.040, pending an adjudicatory hearing only if the Commonwealth shows probable cause to believe one (1) of the following:~~

- ~~(1) All alternatives to secure detention have been exhausted;~~
- ~~(2) The child has, within the last year, failed to appear at court hearings and requires detention to assure his presence at subsequent hearings;~~
- ~~(3) The child has run away from a secure or nonsecure facility;~~
- ~~(4) The child has run away from his home, and his parent, guardian, or person exercising similar custodial control or supervision of the child has orally agreed to assume physical custody or pay for his transportation within forty-eight (48) hours. The child may on his own motion present to the court reasons why he should not be returned to his parents or person exercising similar custodial control or supervision of the child. Upon consideration of such motion or if the parents refuse to assume custody of the child, the court may in its discretion place the youth in a nonsecure facility and concurrently order that a protective services investigation be commenced as allowed by KRS Chapter 620;~~
- ~~(2)(5) A status offender may be securely detained if~~ the cabinet has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to KRS Chapter 615;~~[or]~~
- (3) A status offender who is subject to a valid court order may be securely detained upon a finding that the child violated the valid court order if the court does the following prior to ordering that detention:
 - (a) Affirms that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;
 - (b) Makes a determination during the detention hearing that there is probable cause that the child violated the valid court order; and
 - (c) Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receives an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receives and reviews a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be

conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.

~~[(6)] The child is a danger to himself or others, unless he is suspected of having a mental or emotional illness and requires medical attention in which case the provisions of KRS Chapter 645 shall be followed.]~~

Section 13. KRS 630.100 is amended to read as follows:

Except as otherwise provided in this chapter, no adjudicated status offender shall be securely detained~~[held in a secure juvenile detention facility or juvenile holding facility as provided in KRS 630.040 pending disposition for a period exceeding ten (10) days after the adjudicatory hearing, unless waived by the child and the court considers it in the child's best interest. A child shall not be held in a secure juvenile detention facility or juvenile holding facility more than ten (10) days after the exercise of this waiver].~~

Section 14. KRS 630.120 is amended to read as follows:

(1) All dispositional hearings conducted under this chapter shall be conducted in accordance with the provisions of KRS 610.060 and 610.070. In addition, the court shall, at the time the dispositional order is issued:

(a) Give the child adequate and fair warning of the consequences of the violation of the order; and

(b) Provide the child and the child's attorney, parent, or legal guardian a written statement setting forth the conditions of the order and the consequences for violating the order.

An order issued pursuant to this section is a valid court order and any child violating that order may be subject to the provisions of subsection (3) of Section 12 of this Act.~~[The general conduct of the dispositional hearings under this section relating to status offenders shall follow the procedures pursuant to KRS 610.070 and.]~~

(2) The court shall consider all appropriate local remedies to aid the child and the child's~~[his]~~ family subject to the following conditions:

- (a) Residential and nonresidential treatment programs for status offenders shall be community-based and nonsecure; and
- (b) With the approval of the education agency, the court may place the child in a nonsecure public or private education agency accredited by the Department of Education.

~~[(3)]~~(2) At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports, may be received by the court provided that the child, the child's~~[his]~~ parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause, the court may allow the admission of hearsay evidence.

~~[(4)]~~(3) The court shall affirmatively~~[first]~~ determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.

~~[(5)]~~(4) The court may order the child and the child's~~[his]~~ family to participate in any programs which are necessary to effectuate a change in the child and the family.

~~[(6)]~~(5) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and the child's~~[his]~~ family, the court may commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the child~~[youth]~~ and the child's~~[his]~~ family subject to the following conditions:

- (a) Treatment programs for status offenders shall be, unless excepted by federal law, community-based and nonsecure;
- (b) The cabinet may place the child in a nonsecure public or private education agency accredited by the department of education;
- (c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and
- (d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court which may object to such discharge by holding court review of the commitment under KRS 610.120.

Section 15. KRS 635.055 is amended to read as follows:

No child who is found to be in contempt of court shall be committed as a public offender as a result of such finding, nor detained because of such finding in a facility other than a secure juvenile detention facility,~~[or] juvenile holding facility,~~ or a nonsecure detention alternative.

SECTION 16. A NEW SECTION OF KRS CHAPTER 630 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of KRS Chapter 520 to the contrary, no child accused of being or who has been adjudicated as a status offender or who has been accused of or held in contempt of court based upon an underlying finding that the child is a

status offender who is absent without leave from a nonsecure detention option or home detention, or who fails to comply with the conditions of supervised placement, shall be charged with escape for being absent without leave or failing to comply with the conditions of supervised placement.

Section 17. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
 - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 1. A state, county, city, or federal peace officer;
 2. An employee of a detention facility, or state residential treatment facility or state *staff* secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 3. An employee of the Department for Social Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or
 4. A probation and parole officer; or
 - (b) Being a person confined in a detention facility, or state residential treatment facility or state *staff* secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the facility.
- (2) Assault in the third degree is a Class D felony.

Section 18. The following KRS sections are repealed:

- 610.250 Conditional releases.
- 630.090 Limitations on detention of alleged status offender.
- 630.110 Conduct of adjudicatory hearing.
- 630.130 Limitations on detention of status offender after disposition.

HB 345, AN ACT relating to adoption of children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary for families and children;
- (2) "Cabinet" means the Cabinet for Families and Children;
- (3) "Department" means the Department for Social Services;
- (4) "Child" means any person who has not reached his eighteenth birthday;
- (5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;
- (6) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;
- (7) "Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;
- (8) "Adoption worker" means an employee of the cabinet so designated by the secretary for families and children, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;
- (9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;
- (10) "Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;
- (11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;
- (12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve

- (12) children and two (2) staff persons;
- (13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption; and
- (14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. ~~[In the event the person was not represented by independent legal counsel,]~~ The consent shall be in writing, signed and sworn to by the consenting person and include the following:
- (a) Date, time, and place of the execution of the consent;
 - (b) Name of the child, if any, to be adopted and the date and place of the child's birth;
 - (c) Consenting person's relationship to the child;
 - (d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;
 - (e) A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.
 - 1. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent on or before the twentieth day by certified or registered mail and also by first class mail addressed to the proposed adoptive parent or the attorney for the proposed adoptive parent.
 - 2. If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent on or before the twentieth day by certified or registered mail and also by first class mail addressed to the proposed adoptive parent or the attorney for the proposed adoptive parent. ~~[twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required];~~
 - (f) Disposition of the child if the adoption is not adjudged;
 - (g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;
 - (h) ~~[A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;~~
 - ~~(i)]~~ Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and
 - ~~(j)]~~ (i)] Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 2. KRS 199.500 is amended to read as follows:

- (1) An adoption shall not be granted without the voluntary and informed consent, as defined in Section 1 of this Act, of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:
- (a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;
 - (b) The parental rights of the parents have been terminated under KRS Chapter 625;
 - (c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or
 - (d) The biological parent has not established parental rights as required by KRS 625.065.

- (2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.
- (3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.
- (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to the child.
- (5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable under paragraphs (a) and (b) of this subsection.
 - (a) If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent.
 - (b) If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent~~(twenty (20) days after either the interstate or the intrastate placement approval by the secretary of the Cabinet for Families and Children, or twenty (20) days after the execution of the consent if placement approval was given prior to the signing of the consent, if approval is required).~~

HB 474, AN ACT relating to professional counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.500 is amended to read as follows:

As used in KRS 335.500 to 335.599, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Certification for Professional Counselors;
- (2) "Certified professional counselor" means a person who has completed a master's or doctoral degree in counseling from an accredited educational institution, and is certified by the board;
- (3) "Certified professional counselor associate" means an individual who has a minimum of four hundred (400) hours of experience under the supervision of an approved supervisor and has met the requirements for certification under subsection (1)(a) to (d) of Section 2 of this Act;
- (4) "Certificate holder" means a professional counselor who is certified under the provisions of KRS 335.500 to 335.599;
- ~~(5)~~~~(4)~~ "Approved supervisor" means a person who has been approved by the board to supervise and is qualified under Kentucky law as a licensed psychiatrist, licensed or certified psychologist, licensed clinical social worker, certified professional counselor, nurse with a master's degree and psychiatric certification, certified marriage and family therapist, or certified professional art therapist. The board may approve as supervisor a person from another state with a substantially equivalent certificate or license who is in good standing with the certifying or licensing state and meets, at a minimum, the requirements set out in KRS 335.525; and
- ~~(6)~~~~(5)~~ "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, daughter-in-law, grandparent, grandchild, stepparent, or stepchild.

Section 2. KRS 335.525 is amended to read as follows:

- (1) The board shall issue a "professional counselor" certificate to an applicant who:
 - (a) Has paid the application fee and the appropriate examination fee to the board;
 - (b) Is of good moral character;
 - (c) Has received a master's or doctoral degree in counseling from a regionally-accredited institution;
 - (d) Has completed a minimum of sixty (60) graduate semester hours in the following:
 1. The helping relationship, including counseling theory and practice;
 2. Human growth and development;
 3. Lifestyle and career development;
 4. Group dynamics, process, counseling, and consulting;
 5. Assessment, appraisal, and testing of individuals;
 6. Social and cultural foundations, including multicultural issues;
 7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

8. Research and evaluation; and
9. Professional orientation and ethics;
- (e) As of January 1, 2001, has completed a minimum of three thousand (3,000) hours of experience in the practice of counseling, two thousand (2,000) hours of which must have been obtained since obtaining the master's degree and must be under approved supervision~~[- The experience shall have been performed under the general supervision of an approved supervisor]~~ and shall include, but not be limited to, a minimum of one thousand two hundred (1,200) hours of direct counseling with individuals, couples, families, or groups and a minimum of one hundred (100) hours of individual, face-to-face weekly clinical supervision with an approved supervisor. Up to one thousand (1,000) hours of the supervised experience may be obtained from a supervised practicum or internship. ~~All After January 1, 1998, all previously uncertified~~ applicants shall complete an organized practicum or internship consisting of at least four hundred (400) hours; and
- (f) Has achieved passing scores on all portions of the examinations required by the board.
- (2) The board may issue a professional counselor associate certificate to an applicant as provided under Section 1 of this Act. An associate may apply for professional counselor certification upon completion of the hours of experience required under paragraph (e) of subsection (1) of this section.
- (3) The application fee for certification and the examination fee shall be established pursuant to administrative regulation promulgated by the board.

The Committee Substitute to **HB 474** is as follows:

HB 474, AN ACT relating to professional counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.500 is amended to read as follows:

As used in KRS 335.500 to 335.599, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Certification for Professional Counselors;
- (2) "Certified professional counselor" means a person who has completed a master's or doctoral degree in counseling from an accredited educational institution, and is certified by the board;
- (3) "Certified professional counselor associate" means an individual who has a minimum of four hundred (400) hours of experience under the supervision of an approved supervisor and has met the requirements for certification under subsection (1)(a) to (d) of Section 2 of this Act;
- (4) "Certificate holder" means a professional counselor who is certified under the provisions of KRS 335.500 to 335.599;
- (5)(4) "Approved supervisor" means a person who has been approved by the board to supervise and is qualified under Kentucky law as a licensed psychiatrist, licensed or certified psychologist, licensed clinical social worker, certified professional counselor, nurse with a master's degree and psychiatric certification, certified marriage and family therapist, or certified professional art therapist. The board may approve as supervisor a person from another state with a substantially equivalent certificate or license who is in good standing with the certifying or licensing state and meets, at a minimum, the requirements set out in KRS 335.525; and
- (6)(5) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, daughter-in-law, grandparent, grandchild, stepparent, or stepchild.

Section 2. KRS 335.525 is amended to read as follows:

- (1) The board shall issue a "professional counselor" certificate to an applicant who:
 - (a) Has paid the application fee and the appropriate examination fee to the board;
 - (b) Is of good moral character;
 - (c) Has received a master's or doctoral degree in counseling from a regionally-accredited institution;
 - (d) Has completed a minimum of sixty (60) graduate semester hours in the following:
 1. The helping relationship, including counseling theory and practice;
 2. Human growth and development;
 3. Lifestyle and career development;
 4. Group dynamics, process, counseling, and consulting;
 5. Assessment, appraisal, and testing of individuals;
 6. Social and cultural foundations, including multicultural issues;
 7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

8. Research and evaluation; and
9. Professional orientation and ethics;
- (e) As of January 1, 2001, has completed a minimum of three thousand (3,000) hours of experience in the practice of counseling, ~~[two thousand (2,000) hours of]~~ which must have been obtained since obtaining the master's degree and must be under approved supervision ~~[The experience shall have been performed under the general supervision of an approved supervisor]~~ and shall include, but not be limited to, a minimum of one thousand two hundred (1,200) hours of direct counseling with individuals, couples, families, or groups and a minimum of one hundred (100) hours of individual, face-to-face weekly clinical supervision with an approved supervisor. Up to one thousand (1,000) hours of the supervised experience may be obtained from a supervised practicum or internship. ~~All [After January 1, 1998, all previously uncertified]~~ applicants shall complete an organized practicum or internship consisting of at least four hundred (400) hours; and
- (f) Has achieved passing scores on all portions of the examinations required by the board.
- (2) The board may issue a professional counselor associate certificate to an applicant as provided under Section 1 of this Act. An associate may apply for professional counselor certification upon completion of the hours of experience required under paragraph (e) of subsection (1) of this section.
- (3) The application fee for certification and the examination fee shall be established pursuant to administrative regulation promulgated by the board.

The Committee on Appropriations and Revenue reported **HB 1**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to solid waste and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

- (1) "Advance disposal fee" means a fee paid on a product to pay costs associated with disposal of that product;
- (2) (a) "Beverage" means any of the following products or mixture of the following products if the products are in liquid, ready-to-drink form, and intended for human consumption:
 1. Beer or other malt beverages;
 2. Carbonated soft drinks;
 3. Carbonated or noncarbonated water;
 4. Wine and distilled spirits;
 5. Fruit or vegetable juices, except as provided in subsection (2)(b) of this section;
 6. Sport drinks; and
 7. Coffee and tea drinks.
- (b) The term does not include the following products:
 1. Infant formula;
 2. Milk;
 3. Medical food; and
 4. Fruit and vegetable juices in containers that are twenty four (24) ounces or more in volume, or in containers that are less than twenty four (24) ounces that are packaged in units of three (3) or more containers.
- (3) "Beverage cup" means an individual disposable container used by the food and beverage industry to dispense beverages and made of paper, plastic, or a combination of these materials;
- (4) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (5) "Consumer" means any person who purchases a beverage or other consumer product in a container for use or consumption. The term also includes any owner of a lodging, eating, or drinking establishment that sells beverages in containers for consumption on the premises;
- (6) "Container" means an individual bottle, can, jar, or other receptacle with a capacity of four (4) fluid ounces up to one (1) gallon, in which a beverage is sold, and which is constructed of metal, glass, plastic, paper, or any combination of these materials. The term does not include any refillable container;

- (7) "Container type" means the material used in the manufacture of the containers of the following categories:
- (a) Aluminum;
 - (b) Steel;
 - (c) Bi-metal;
 - (d) Green glass;
 - (e) Clear glass;
 - (f) Brown glass; and
 - (g) Individual plastic resins;
- (8) "Dealer" means any person in this Commonwealth who engages in the sale of beverages in containers to a consumer. The term also includes an operator of a vending machine;
- (9) "Distributor" means any person who engages in the sale of containers, beverage cups, or fast-food packaging to a dealer in this Commonwealth, including any manufacturer if the manufacturer engages in these sales;
- (10) "Fast-food packaging" means a hinged or nonhinged container, food wrapper, or bag made up of paper, plastic, or a combination of these materials and used by a fast-food retail establishment;
- (11) "Fast-food retail establishment" means a restaurant with a drive-through window;
- (12) "Handling fee" means a per-container payment made to redemption centers;
- (13) "Local government" means any county, urban-county government, waste management district, city, or charter county government;
- (14) "Manufacturer" means any person who bottles, cans, or otherwise fills containers for sale to distributors or dealers;
- (15) "Processors" means any person who purchases redeemed containers from redemption centers in the Commonwealth for sale or transfer to an end user or broker;
- (16) "Redemption center" means any facility for collecting empty containers for redemption;
- (17) "Refillable container" means any container that:
- (a) Is capable of being refilled multiple times; and
 - (b) Is distributed by a distributor that operates or has arranged for the operation of a facility and system that processes and refills all returned refillable containers sold by that distributor in the Commonwealth; and
- (18) "Scrap value" means the price paid for container types by a processor.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Every beverage container sold or offered for sale in the Commonwealth shall have a minimum refund value in the following amounts:
- (a) Refund value of five cents (\$0.05) for a container with a content of four (4) ounces up to twenty (20) ounces; and
 - (b) Refund value of ten cents (\$0.10) for a container with a content equal to or greater than twenty (20) ounces up to one (1) gallon.
- (2) For local governments with curbside recycling programs that do not sort containers, the refund value may be based on the average proportion of refundable containers to nonrefundable containers, determined through a sampling plan approved by the Container Recycling Authority established in Section 11 of this Act and subject to audit performed by the authority.
- (3) This section does not apply to containers sold by a distributor for use by a common carrier in the conduct of interstate passenger service.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A dealer shall sell beverage containers in the Commonwealth that clearly show, by engraving, embossing, molding, stamping, labeling, or other method securely affixed to the container Kentucky's minimum refund value of the container and, if appropriate, a corresponding bar code.
- (2) Every consumer shall deposit with the dealer the refund value of each beverage container purchased from that dealer.
- (3) The deposit required in subsection (2) of this section shall not be considered part of the price of the container for sales or gross receipts tax purposes.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, or charter county government shall ensure that at least one (1) redemption

center is available for redemption of all container types where consumers may return empty containers and receive the minimum refund value of the containers. A county, urban-county government, or charter county government may:

- (a) Operate its own redemption centers;
- (b) Establish redemption centers through contract or other agreement with another person;
- (c) Form a regional redemption center with one (1) or more other counties; and
- (d) Designate the cabinet to establish a redemption center by:
 - 1. Utilizing the Transportation Cabinet's highway maintenance garages;
 - 2. Establishing a redemption center through contract or other agreement with another person; or
 - 3. Forming a regional redemption center with one (1) or more other counties.
- (2) Any local government, person, or retailer may establish a redemption center consistent with the area solid waste management plan subject to certification by the cabinet.
- (3) Counties shall list all available redemption centers in their area solid waste management plans.
- (4) Any money received from the sale of recyclable material by a redemption center operated by the cabinet under subsection (1)(d) of this section shall be deposited in the Kentuckians against trash fund created in Section 9 of this Act.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall promulgate administrative regulations to establish certification requirements for redemption centers.
- (2) The cabinet by administrative regulation shall establish operating requirements for redemption centers, including reporting requirements for the numbers, types, and sizes of redeemed containers. The cabinet shall review compliance with administrative regulations. If after a hearing in accordance with KRS Chapter 13B, it is determined that a redemption center is not in compliance, the cabinet shall withdraw its certification of the redemption center.
- (3) Uncertified redemption centers shall not be eligible to receive reimbursement for the minimum refund values paid to consumers or for handling fees as authorized by Section 10 of this Act.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in Section 7 of this Act, a redemption center shall accept all empty containers brought to the center for redemption by any person and shall pay the minimum refund value established in Section 2 of this Act.
- (2) No redemption center shall pay and no person shall knowingly receive a minimum refund value for empty beverage containers that:
 - (a) Have already been redeemed; or
 - (b) Do not have stated on them the minimum refund value and state identification as provided for in Section 3 of this Act.
- (3) A redemption center may refuse to accept and shall not be reimbursed the minimum refund value of any container that:
 - (a) Does not have stated on it the minimum refund value and state identification as provided for in Section 3 of this Act; and
 - (b) Bears an indication that it has already been redeemed and its minimum refund value has already been paid.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A redemption center may refuse to accept any container that is broken, dirty, or contains material foreign to normal contents of the container.
- (2) A redemption center may refuse to accept more than two hundred forty (240) beverage containers during a twenty-four (24) hour period from one (1) person.
- (3) Semitrailer truckloads of empty beverage containers may not be redeemed at redemption centers.
- (4) A redemption center may require a person to show identification and to provide information on the origin of empty beverage containers to aid in the prevention of fraudulent redemption.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Distributors shall pay to the Container Recycling Authority created in Section 11 of this Act the minimum refund value for all containers sold or transferred to a dealer, or sold directly to a consumer, in a manner and within time periods determined by the authority. The minimum refund value shall be accompanied by a report or return in a form that the authority may prescribe by administrative regulation.

- (2) Distributors shall pay to the authority one-fourth of one cent (\$0.0025) for each beverage cup and fast-food packaging sold to a fast-food retail establishment as an advance disposal fee in a manner and within time periods determined by the authority. The fee shall be accompanied by a report or return in a form that the authority may prescribe by administrative regulation.
- (3) If a distributor fails to make a payment and file a return required by this section on or before the due date established by the authority, the authority may assess a penalty of ten percent (10%) of the amount due, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late.
- (4) All payments collected by the authority under this section shall be paid into the State Treasury and credited to the Kentuckians against trash fund established in Section 9 of this Act.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A trust fund, which shall be known as the "Kentuckians Against Trash Fund" is hereby created in the State Treasury of the Commonwealth to be administered by the Container Recycling Authority established in Section 11 of this Act. All payments collected under Sections 4, 8, and 17 of this Act shall be deposited in the Kentuckians against trash fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.
- (2) Money in the fund from container deposits shall be used for reimbursement of minimum refund values paid to redemption centers for redemptions, reimbursement of handling fees established by Section 10 of this Act, reimbursement to the general fund of the State Treasury for the original appropriation associated with implementing Sections 1 to 18 of this Act, and reimbursement of principal and interest on debt incurred by the Container Recycling Authority established in Section 11 of this Act and as authorized by Section 14 of this Act.
- (3) Money in the fund from advance disposal fees, from the sale of recyclable material under Section 4 of this Act, and collection of penalties established in Sections 8 and 17 of this Act shall be used as follows:
 - (a) Up to forty-five percent (45%) to be used for payment of handling fees established by Section 10 of this Act;
 - (b) Up to one percent (1%) to be used for the payment of administrative costs by the cabinet and the Transportation Cabinet, incurred to implement Sections 1 to 18 of this Act;
 - (c) Up to three percent (3%) to be used for the payment of administrative costs by the Container Recycling Authority created in Section 11 of this Act incurred to implement Sections 1 to 18 of this Act;
 - (d) Up to five percent (5%) to be used for the adopt a highway program by the Transportation Cabinet;
 - (e) Up to ten percent (10%) to be used for a public awareness program including public service announcements by the Legislative Research Commission;
 - (f) Up to thirty-six percent (36%) to be used for roadsides, streams, and illegal dump cleanups, and operation of county wide, universal solid waste collection systems to be dispersed to counties as follows:
 - 1. One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties;
 - 2. One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population of a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.
 - 3. One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.
 - 4. Two fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.
- (4) Unexpended money from this section remaining in the fund at the end of the fiscal year shall revert to the Kentuckians against trash fund and shall be authorized and administered by the Container Recycling Authority established in Section 11 of this Act for the operation of the container deposit recycling program, county solid waste management programs, and recycling programs and activities including the marketing of recycled material.

SECTION 10. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Redemption centers shall receive a two-cent (\$0.02) handling fee for each container redeemed with the exception of aluminum

containers unless the Container Recycling Authority established in Section 11 of this Act determines that the scrap value for aluminum is lower than the cost of recycling aluminum and includes aluminum in the payment of handling fees or makes similar adjustments to handling fees based on container type under Section 13 of this Act.

SECTION 11. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The Container Recycling Authority is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, which shall be a public body corporate and politic, performing functions and purposes essential to managing the container deposit program and disbursing moneys from the Kentuckians against trash fund. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870.
- (2) The Container Recycling Authority shall be composed of thirteen (13) members as follows:
 - (a) The commissioner of the Department for Environmental Protection, or the commissioner's designee;
 - (b) The commissioner of the Department of Highways or the commissioner's designee;
 - (c) The commissioner of the Department for Local Government or the commissioner's designee;
 - (d) The director of the Kentucky Environmental Education Council or the director's designee;
 - (e) The director of the Container Recycling Authority as established in Section 12 of this Act;
 - (f) One (1) person appointed by the President of the Senate;
 - (g) One (1) person appointed by the Speaker of the House of Representatives;
 - (h) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Solid Waste Coordinators of Kentucky;
 - (i) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky Association of Counties;
 - (j) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky League of Cities;
 - (k) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky Farm Bureau;
 - (l) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky chapter of the Solid Waste Association of North America; and
 - (m) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky Scrap Processors and Recyclers Association.
- (3) Of the seven (7) members identified in paragraphs (h) to (m) of subsection (2) of this section and first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, and three (3) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. Members shall elect their own chair.
- (4) Seven (7) members of the authority shall constitute a quorum.
- (5) The members of the Container Recycling Authority shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the authority.

SECTION 12. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) In order to effectuate and administer Sections 1 to 18 of this Act, the Container Recycling Authority may hire a full-time director, who shall be qualified by training and experience to perform the duties of this office and carry out the purpose of Sections 1 to 18 of this Act, and who shall hold office at the pleasure of the authority. The salary of the director shall be determined by the commission. The director shall, upon the advice and consent of the authority, employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of Sections 1 to 18 of this Act.
- (2) The director shall, upon the advice and consent of the authority, provide for the allocation of the work and activities of all employees of the authority.

SECTION 13. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Container Recycling Authority shall:

- (1) Distribute money from the Kentuckians against trash fund as authorized by subsections (2) and (3) of Section 9 of this Act;

- (2) Establish guidelines for the use of funds and distribute fund money as authorized by subsection (4) of Section 9 of this Act, utilizing the framework provided by area solid waste management plans as established in KRS 243.43-340;
- (3) Incur debt in its own name and enter into financing agreements with state agencies of the Commonwealth or with a commercial bank, excluding issuing bonds;
- (4) Review handling fee rates as needed and make adjustments to the rates, taking into account the container type's scrap value offered to redemption centers by willing processors;
- (5) Make recommendations to the General Assembly about the types of beverage containers to include in the container deposit program;
- (6) Assist in the development and implementation of statewide public education programs;
- (7) Coordinate efforts among state agencies, nonprofit organizations, private businesses, and volunteer groups to facilitate an efficient use of resources to reduce litter and promote recycling;
- (8) Act as a state broker for local government and redemption centers seeking to sell redeemed containers and recyclable materials by contracting with processors, secondary material manufacturers, or other brokers;
- (9) Keep accurate books, records, and accounts of all entities making payments to, or receiving payments from, the Kentuckians against trash fund; and
- (10) Develop and submit an annual report by October 1 of each year, beginning October 1, 2002, to the General Assembly on the activities of the authority, the administration of fund moneys, and any recommendations for modification which would improve the container recycling program.

SECTION 14. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The Container Recycling Authority may borrow money in accordance with Section 13 of this Act to provide sufficient funds for implementing the container deposit program, including, but not limited to, amounts necessary to make loans or grants for establishing redemption centers and purchasing recycling equipment. The authority may pledge money from the Kentuckians against trash fund for the payment of principal and interest on loans.
- (2) The maximum amount of money that the authority may borrow from all state agencies shall not exceed five million dollars (\$5,000,000) to be repaid over a period not to exceed ten (10) years from the original loan date. The rate of interest shall be at the rate or rates or method of determining rates as the authority and lending agency determines. To minimize cash requirements and interest obligations, loans shall be executed as a line of credit against the lending agencies, so that only those funds actually required for container deposit program operations are borrowed as needed.
- (3) The Container Recycling Authority may receive and accept grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used to carry out the functions of the authority.

SECTION 15. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the Kentuckians against trash fund and container recycling program, and the costs of the audit shall be considered an administrative cost to be borne by the fund. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the Container Recycling Authority.

SECTION 16. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Counties receiving moneys according to Section 9 of this Act shall establish a line item in their budget to account for the money received.
- (2) The Container Recycling Authority shall establish by administrative regulations county reporting requirements for expenditure of funds and receipt of unobligated funds. If a county fails to comply with the requirements of these administrative regulations, money from the fund shall be withheld from the county for the next year.

SECTION 17. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Any dealer or consumer who violates Section 3 of this Act, and any redemption center or person who violates Section 6 of this Act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for an initial offense and not more than five thousand dollars (\$5,000) for each subsequent offense. Each day that a dealer or consumer violates Section 3 of this Act, and any redemption center or person violates Section 6 of this Act, shall constitute as a separate offense.
- (2) All moneys collected under this section shall be deposited in the Kentuckians against trash fund.

SECTION 18. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Container Recycling Authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out Sections 1 to 18 of this Act. The authority shall not place a minimum refund value on any container other than a beverage container as defined in Section 1 of this Act.

SECTION 19. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The "Adopt-a-Highway Fund" is created as a special fund in the State Treasury. The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from investments of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.
- (2) The Transportation Cabinet may receive and accept grants, contributions of money, property, labor, or other things at value from any governmental agency, nonprofit organization, or private business to be used for the adopt-a-highway litter reduction program. Moneys received under this section shall be deposited in the adopt-a-highway fund.
- (3) The Transportation Cabinet shall administer the fund, and may make funds available for:
 - (a) Roadside litter cleanup;
 - (b) Litter control organizations as the department deems appropriate; and
 - (c) Public educational programs concerning litter problems.
- (4) The Transportation Cabinet shall coordinate its litter reduction efforts with the Container Recycling Authority established in Section 11 of this Act.
- (5) The Transportation Cabinet, beginning October 1, 2001, and by October 1 of each year thereafter, shall report to the General Assembly on the collection and use of money for the adopt-a-highway fund and on the activities of the highway litter reduction program.

SECTION 20. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, charter county government, or solid waste management area shall have a solid waste coordinator who shall be responsible for coordinating solid waste activities in that county or area.
- (2) A solid waste coordinator shall:
 - (a) Coordinate the implementation of an area solid waste management plan;
 - (b) Participate in the enforcement of county solid waste ordinances and state litter laws;
 - (c) Assist with the establishment of recycling programs;
 - (d) Assist the county or waste management district in improving existing waste collection and disposal systems;
 - (e) Maintain an inventory of open dumping activity and coordinate the cleanup of open dump sites;
 - (f) Develop budgets in connection with local solid waste management; and
 - (g) Assist with public education programs for schools and adults.
- (3) Counties may share the services of one (1) solid waste coordinator subject to approval by the cabinet.

SECTION 21. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall provide a toll-free phone line for the reporting of vehicles with persons who litter and unsecured loads. The cabinet shall publish and broadcast announcements throughout the state regarding the toll-free line and legal consequences of littering.
- (2) Upon receiving a report of litter or unsecured loads via the toll-free phone line, the cabinet shall notify the cabinet's Office of Inspector General and the proper law enforcement authorities as established in Section 23 of this Act who are responsible for enforcing the criminal littering laws.
- (3) A person who testifies in court as a witness to criminal littering shall be reimbursed reasonable expenses if the defendant is convicted in accordance with Section 22 of this Act.

Section 22. KRS 512.070 is amended to read as follows:

- (1) A person is guilty of criminal littering when he:
 - (a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or
 - (b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or
 - (c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty (50) feet of a public highway; or

- (d) Discharges sewage, minerals, oil products or litter into any public waters or lakes within the state.
- (2) Criminal littering is a Class A misdemeanor.
- (3) **Upon conviction, the court shall also order the defendant to pay the reasonable costs of witnesses for the prosecution.**

Section 23. KRS 433.753 is amended to read as follows:

- (1) When any paper, waste material, litter, or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of criminal littering.
- (2) It shall be the duty of the Kentucky State Police, county sheriffs and police officers, **county solid waste coordinators**, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the criminal littering laws.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for commission of the offense of criminal littering.

Section 24. KRS 433.757 is amended to read as follows:

- (1) When any litter as defined in KRS 512.010 is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated KRS 512.070.
- (2) It shall be the duty of officers of the Department of Fish and Wildlife Resources as provided in KRS 235.010 and KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions, **as well as county solid waste coordinators provided in Section 20 of this Act**, to enforce the provisions of KRS 512.070.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm, or corporation for a violation of KRS 512.070.

Section 25. KRS 224.01-010 is amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental

thereto;

- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
- (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
 1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;
 2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
 - (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
- (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- (36) "NPDES" means National Pollutant Discharge Elimination System;
- (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the

cabinet;

- (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
- (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
- (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;
- (45) "Universal collection" means a municipal solid waste ~~curbside or end-of-driveway~~ collection system which is established by ordinance and approved by the cabinet and requires ~~participation by~~~~access for~~ each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 26. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in subsections (6) and (8) of this section, each county, urban-county government, or charter county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, or franchise.
- (2) When collection is provided by contract, franchise, or under local permit, the county, urban-county government, or charter county government shall require reports from the entity providing collection to document the rate of collection.
- (3) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection will be funded and enforced. In order to facilitate uninterrupted collection service, the amended plan shall include the method of billing and collecting pick-up fees from households or solid waste generators, the method for pursuing collection of delinquent fees, and the method for tracking households or solid waste generators moving into the county.
- (4) If a household or solid waste generator becomes delinquent in the payment of solid waste pick-up fees, the county,

urban-county, or charter county government shall determine the reason for delinquency and pursue means to resolve the delinquency to ensure payment of solid waste pick-up fees. These means may include:

- (a) Setting reduced solid waste pick-up fees for low income households; and
- (b) Allowing an electric or other utility company to collect the solid waste pick-up fee for a commission or percentage of the total fees collected.
- (5) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recyclable material.
- (6) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, the rate of collection, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.
- (7) The county, urban-county government, or charter county government may enter into agreements with any person for performing the responsibilities described in this section, including cities within its geographic boundaries, but the county, urban-county government, or charter county government shall be responsible for providing the universal collection program described in this section, except any city of the first or second class having sole responsibility for developing its portion of the solid waste plan shall be responsible for providing the universal collection within its jurisdiction.
- (8) If a county, urban-county government, charter county government, or city fails to meet the statewide average collection rate for household garbage for three (3) consecutive months, the cabinet shall issue a notice of intent to operate the universal collection program. Along with the notice of intent, the cabinet shall make recommendations on how to increase the collection rate. If the county, urban-county government, charter county government, or city fails to meet the statewide average collection rate for household garbage within ninety (90) days following the notice of intent, the cabinet shall operate the universal collection program. The Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for any county, urban-county government, charter county government, or city that has a universal collection program operated by the cabinet.
- (9) A commercial or industrial entity which transports or contracts for the transport of solid waste it generates or which operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government.

SECTION 27. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) In order to provide universal collection as established in Section 26 of this Act, a county, urban-county government, or charter county government may collect solid waste pick-up fees in advance by combining the pick-up fees with the property tax bill for the property where the solid waste pick-up is made. The fees shall be limited to operational costs.
- (2) The pick-up fee when combined with the property tax bill shall be clearly set out as the amount owed for solid waste pick-up services and shall in no way be represented as an assessment based on the value of the property.
- (3) If the owner of the property is not the occupant of the property where the solid waste is picked up, the owner of the property shall pay the solid waste pick-up fees for the property.
- (4) If the owner of the property uses the property as a vacation home for a period of three (3) months or less, the county, urban-county government, or charter county government may waive the solid waste pick-up fee portion of the property tax bill if the owner of the property requests a waiver. In requesting the waiver, the owner shall certify that the property is a vacation home, and that the owner will remove solid waste from the property in a legal manner or temporarily subscribe for universal collection service while the property is in use.

Section 28. KRS 224.43-310 is amended to read as follows:

- (1) The Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky is designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The cabinet shall have primary responsibility for coordinating the solid waste planning and management activities of waste management districts, counties, cities, area development districts, and any combination thereof and for the approval of solid waste management facilities. In doing so it shall be the goal of the cabinet to reduce the amount of solid waste disposed in municipal solid waste disposal facilities within the Commonwealth and to encourage regional management of solid waste.
- (2) The cabinet shall have the primary responsibility to develop, review, report on, and triennially update a statewide solid waste reduction and management plan. A draft plan shall be prepared and made available for public inspection by December 1, 1991; a proposed final plan shall be submitted to the General Assembly by February 1, 1992; and a final plan shall be submitted to the General Assembly by March 1, 1992. The plan shall be designed to address the following:
 - (a) Coordination of area plans and provision of support for area planning efforts;

- (b) Reductions in solid waste disposed in municipal solid waste disposal facilities within the Commonwealth by actively promoting reuse and reduction consistent with the goals established by KRS 224.43-010;
 - (c) Adequate capacity exists for recycling or disposal of solid waste generated within the Commonwealth for a five (5), ten (10), and twenty (20) year period;
 - (d) Disposal capacity for solid waste generated in the Commonwealth is maintained if the cabinet acts to close a solid waste management facility;
 - (e) Regional alternatives for waste reduction and management are encouraged in the planning process;
 - (f) Priority in grants and loans is afforded for regional waste reduction and management alternatives;
 - (g) Solid waste management plans meet minimum standards and procedures established by the cabinet in administrative regulations;
 - (h) A description of the status of solid waste reduction and management efforts in Kentucky;
 - (i) Identification of state actions and responsibilities necessary to implement this chapter; and
 - (j) Identification of problems impeding the attainment of the policies and goals of this chapter.
- (3) The plan shall not establish maximum disposal capacity limitations for the Commonwealth.
- (4) The cabinet, beginning July 1, 1992, shall report annually to the Governor and to the General Assembly on the status of solid waste management in the Commonwealth. The report filed July 1, 1992, shall present the current status of solid waste planning and management in the Commonwealth. Subsequent annual reports shall include, but not be limited to:
- (a) The status of solid waste planning and management;
 - (b) The number and types of recycling and solid waste management facilities in the Commonwealth;
 - (c) The remaining permitted capacity of each permitted solid waste management facility;
 - (d) The number and types of solid waste grants or loans made to cities, counties, waste management districts, and area development districts;
 - (e) A compilation and analysis of solid waste reduction and management data provided to the cabinet;
 - (f) A statement of progress achieved in meeting the goals established by KRS 224.43-010;
 - (g) A statement of progress achieved in solid waste management education;
 - (h) A statement of progress achieved in establishing regional solid waste management approaches;
 - (i) A statement of progress achieved in the implementation and maintenance of universal collection programs by counties;
 - (j) Any revisions in the statewide solid waste reduction and management plan; and
 - ~~(k)(4)~~ Recommendations for improving the reduction and management of solid waste in the Commonwealth.
- (5) Beginning January 1, 1993, each governing body shall report annually to the cabinet on the status of solid waste management in its area. The annual report shall include, but not be limited to:
- (a) The amount of in-area and out-of-area municipal solid waste disposed in municipal solid waste disposal facilities in the area;
 - (b) The progress on the reduction in municipal solid waste disposal in the area since the previous reporting period and total cumulative progress made toward meeting the state reduction goal described in KRS 224.43-010;
 - (c) The remaining permitted capacity of disposal facilities;
 - (d) Recycling and composting activities in existence;
 - (e) Public information and education activities during the reporting period;
 - (f) The rate of collection by universal collection programs;
 - (g) Fees for solid waste management assessed and collected; and
 - ~~(h)(4)~~ Any other pertinent information as may be required by the cabinet.
- (6) There is created a Solid Waste Reduction and Management Plan Advisory Committee to advise and review a draft and final solid waste reduction and management plan and any amendments of the plan prepared by the cabinet under subsection (2) of this section.
- (7) The Solid Waste Reduction and Management Plan Advisory Committee shall consist of the secretary of the Natural Resources and Environmental Protection Cabinet or his designee who shall serve as chairman, one (1) member of the Senate to be appointed by the President, one (1) member of the House of Representatives to be appointed by the Speaker of the House of Representatives, and nine (9) members to be appointed by the Governor as follows:
- (a) Two (2) members shall represent the interest of counties;
 - (b) Two (2) members shall represent the interests of cities, one (1) from a first or second class city or urban-county;

- government and one (1) from either a third, fourth, fifth, or sixth class city;
- (c) One (1) member shall represent the interests of industrial generators of solid wastes;
 - (d) One (1) member shall represent the private recycling industry;
 - (e) One (1) member shall represent the private solid waste disposal industry;
 - (f) One (1) member shall be from a statewide environmental advocacy organization; and
 - (g) One (1) member shall represent the public-at-large.
- (8) Vacancies on the committee shall be filled in the same manner as the original appointment occurred.
 - (9) Nonlegislative members of the committee shall serve without pay and shall receive their reasonable and necessary expenses in connection with the performance of their duties.
 - (10) The committee shall meet at the call of the chairman. The committee may hold public hearings or make site visits as necessary. A quorum of its members is necessary to take action on any matter. A majority vote of the total members present must approve any action.
 - (11) Following adoption of the statewide solid waste reduction and management plan, the committee shall remain in service to provide guidance and advice to the cabinet in the implementation of the plan. The committee shall no longer remain in service after the 1994 General Assembly unless the 1994 General Assembly takes action to continue the committee.

Section 29. The following KRS section is repealed:

224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion.

Section 30. There is appropriated out of the general fund in the State Treasury three million dollars (\$3,000,000) to the Container Recycling Authority created by Section 11 of this Act for the purpose of developing and implementing a container recycling program and to further carry out the provisions of Sections 1 to 18 of this Act

Section 31. Sections 1 to 18 of this Act take effect July 1, 2001.

The Committee Substitute to **HB 1** is as follows:

HB 1, AN ACT relating to solid waste and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

- (1) *"Advance disposal fee" means a fee paid on a product to pay costs associated with disposal of that product;*
- (2) (a) *"Beverage" means any of the following products or mixture of the following products if the products are in liquid, ready-to-drink form, and intended for human consumption:*
 - 1. Beer or other malt beverages;*
 - 2. Carbonated soft drinks;*
 - 3. Carbonated or noncarbonated water;*
 - 4. Wine and distilled spirits;*
 - 5. Fruit or vegetable juices and drinks, except as provided in subsection (2)(b) of this section;*
 - 6. Sport drinks; and*
 - 7. Coffee and tea drinks.*
- (b) *The term does not include the following products:*
 - 1. Infant formulas, cereals, and juices;*
 - 2. Milk;*
 - 3. Medical food prescribed by a physician to a patient who has special nutrient needs in order to manage a disease or health condition, and the patient is under the physician's ongoing care;*
 - 4. Fruit and vegetable juices and drinks in containers that are twenty-four (24) ounces or more in volume, or in containers that are greater than four (4) ounces and less than twenty-four (24) ounces that are packaged in units of three (3) or more containers; and*
 - 5. Nutritional products, vitamin-fortified and specifically designed to gain, reduce, or maintain weight and to aid in the consumption of a healthy diet.*
- (3) *"Beverage cup" means an individual disposable cup used by the food and beverage industry to dispense beverages and*

made of paper, plastic, or a combination of these materials;

- (4) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (5) "Consumer" means any person who purchases a beverage or other consumer product in a container for use or consumption. The term also includes any owner of a lodging, eating, or drinking establishment that sells beverages in containers for consumption on the premises;
- (6) "Container" means an individual bottle, can, jar, or other receptacle with a capacity of four (4) fluid ounces up to one (1) gallon, in which a beverage is sold, and which is constructed of metal, glass, plastic, paper, or any combination of these materials. The term does not include any refillable container;
- (7) "Container type" means the material used in the manufacture of the containers of the following categories:
 - (a) Aluminum;
 - (b) Steel;
 - (c) Bi-metal;
 - (d) Green glass;
 - (e) Clear glass;
 - (f) Brown glass; and
 - (g) Individual plastic resins;
- (8) "Dealer" means any person in this Commonwealth who engages in the sale of beverages in containers to a consumer. The term also includes an operator of a vending machine;
- (9) "Distributor" means any person who engages in the sale of containers, including any manufacturer if the manufacturer engages in these sales;
- (10) "Fast-food packaging" means a hinged or nonhinged container, food wrapper, or bag made up of paper, plastic, or a combination of these materials and used by a fast-food retail establishment;
- (11) "Fast-food retail establishment" means a restaurant with a drive-through window;
- (12) "Handling fee" means a per-container payment made to redemption centers;
- (13) "Local government" means any county, urban-county government, waste management district, city, or charter county government;
- (14) "Manufacturer" means any person who bottles, cans, or otherwise fills containers for sale to distributors or dealers;
- (15) "Processors" means any person who purchases redeemed containers from redemption centers in the Commonwealth for sale or transfer to an end user or broker;
- (16) "Redemption center" means any facility for collecting empty containers for redemption;
- (17) "Refillable container" means any container that:
 - (a) Is capable of being refilled multiple times; and
 - (b) Is distributed by a distributor that operates or has arranged for the operation of a facility and system that processes and refills all returned refillable containers sold by that distributor in the Commonwealth; and
- (18) "Scrap value" means the price paid for container types by a processor.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Every beverage container sold or offered for sale in the Commonwealth shall have a minimum refund value in the following amounts:
 - (a) Refund value of five cents (\$0.05) for a container with a content of four (4) ounces up to twenty (20) ounces; and
 - (b) Refund value of ten cents (\$0.10) for a container with a content equal to or greater than twenty (20) ounces up to one (1) gallon.
- (2) For local governments with curbside recycling programs that do not sort containers, the refund value may be based on the average proportion of refundable containers to nonrefundable containers, determined through a sampling plan approved by the Container Recycling Authority established in Section 11 of this Act and subject to audit performed by the authority.
- (3) This section does not apply to containers sold by a distributor for use by a common carrier in the conduct of interstate passenger service.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A dealer shall sell beverage containers in the Commonwealth that clearly show, by engraving, embossing, molding,

stamping, labeling, or other method securely affixed to the container Kentucky's minimum refund value of the container and, if appropriate, a corresponding bar code.

- (2) Every consumer shall deposit with the dealer the refund value of each beverage container purchased from that dealer.
- (3) The deposit required in subsection (2) of this section shall not be considered part of the price of the container for sales or gross receipts tax purposes.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, or charter county government shall ensure that at least one (1) redemption center is available for redemption of all container types where consumers may return empty containers and receive the minimum refund value of the containers. A county, urban-county government, or charter county government may:
 - (a) Operate its own redemption centers;
 - (b) Establish redemption centers through contract or other agreement with another person;
 - (c) Form a regional redemption center with one (1) or more other counties; and
 - (d) Designate the cabinet to establish a redemption center by:
 - 1. Utilizing the state's highway maintenance garages;
 - 2. Establishing a redemption center through contract or other agreement with another person; or
 - 3. Forming a regional redemption center with one (1) or more other counties.
- (2) Any local government, person, or retailer may establish a redemption center consistent with the area solid waste management plan subject to certification by the cabinet.
- (3) Counties shall list all available redemption centers in their area solid waste management plans.
- (4) Any money received from the sale of recyclable material by a redemption center operated by the cabinet under subsection (1)(d) of this section shall be deposited in the Kentuckians against trash fund created in Section 9 of this Act.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall promulgate administrative regulations to establish certification requirements for redemption centers.
- (2) The cabinet by administrative regulation shall establish operating requirements for redemption centers, including reporting requirements for the numbers, types, and sizes of redeemed containers. The cabinet shall review compliance with administrative regulations. If after a hearing in accordance with KRS Chapter 13B, it is determined that a redemption center is not in compliance, the cabinet shall withdraw its certification of the redemption center.
- (3) Uncertified redemption centers shall not be eligible to receive reimbursement for the minimum refund values paid to consumers or for handling fees as authorized by Section 10 of this Act.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in Section 7 of this Act, a redemption center shall accept all empty containers brought to the center for redemption by any person and shall pay the minimum refund value established in Section 2 of this Act.
- (2) No redemption center shall pay and no person shall knowingly receive a minimum refund value for empty beverage containers that:
 - (a) Have already been redeemed; or
 - (b) Do not have stated on them the minimum refund value and state identification as provided for in Section 3 of this Act.
- (3) A redemption center may refuse to accept and shall not be reimbursed the minimum refund value of any container that:
 - (a) Does not have stated on it the minimum refund value and state identification as provided for in Section 3 of this Act; and
 - (b) Bears an indication that it has already been redeemed and its minimum refund value has already been paid.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A redemption center may refuse to accept any container that is broken, dirty, or contains material foreign to normal contents of the container.
- (2) A redemption center may refuse to accept more than two hundred forty (240) beverage containers during a twenty-four (24) hour period from one (1) person.

- (3) Semitrailer truckloads of empty beverage containers may not be redeemed at redemption centers.
- (4) A redemption center may require a person to show identification and to provide information on the origin of empty beverage containers to aid in the prevention of fraudulent redemption.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Distributors shall pay to the Container Recycling Authority created in Section 11 of this Act the minimum refund value for all containers sold or transferred to a dealer, or sold directly to a consumer, in a manner and within time periods determined by the authority. The minimum refund value shall be accompanied by a report or return in a form that the authority may prescribe by administrative regulation.
- (2) Fast-food retail establishments shall pay to the authority one-fourth of one cent (\$0.0025) for each beverage cup and fast-food packaging used by the establishment as an advance disposal fee in a manner and within time periods determined by the authority. The fee shall be accompanied by a report or return in a form that the authority may prescribe by administrative regulation.
- (3) If a distributor or fast-food retail establishment fails to make a payment and file a return required by this section on or before the due date established by the authority, the authority may assess a penalty of ten percent (10%) of the amount due, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late.
- (4) All payments collected by the authority under this section shall be paid into the State Treasury and credited to the Kentuckians against trash fund established in Section 9 of this Act.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A trust fund, which shall be known as the "Kentuckians Against Trash Fund" is hereby created in the State Treasury of the Commonwealth to be administered by the Container Recycling Authority established in Section 11 of this Act. All payments collected under Sections 4, 8, and 17 of this Act shall be deposited in the Kentuckians against trash fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.
- (2) Money in the fund from container deposits shall be used for reimbursement of minimum refund values paid to redemption centers for redemptions, reimbursement of handling fees established by Section 10 of this Act, reimbursement to the general fund of the State Treasury for the original appropriation associated with implementing Sections 1 to 18 of this Act, and reimbursement of principal and interest on debt incurred by the Container Recycling Authority established in Section 11 of this Act and as authorized by Section 14 of this Act.
- (3) Money in the fund from advance disposal fees, from the sale of recyclable material under Section 4 of this Act, and collection of penalties established in Sections 8 and 17 of this Act shall be used as follows:
 - (a) Up to forty-five percent (45%) to be used for payment of handling fees established by Section 10 of this Act;
 - (b) Up to one percent (1%) to be used for the payment of administrative costs by the cabinet and the Transportation Cabinet, incurred to implement Sections 1 to 18 of this Act;
 - (c) Up to three percent (3%) to be used for the payment of administrative costs by the Container Recycling Authority created in Section 11 of this Act incurred to implement Sections 1 to 18 of this Act;
 - (d) Up to five percent (5%) to be used for the adopt-a-highway program by the Department of Transportation;
 - (e) Up to ten percent (10%) to be used for a public awareness program including public service announcements by the Legislative Research Commission;
 - (f) Up to thirty-six percent (36%) to be used for roadsides, streams, and illegal dump cleanups, and operation of county wide, universal solid waste collection systems to be dispersed to counties as follows:
 - 1. One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties;
 - 2. One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population of a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.
 - 3. One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.
 - 4. Two fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas

having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.

- (4) Unexpended money from this section remaining in the fund at the end of the fiscal year shall revert to the Kentuckians against trash fund and shall be authorized and administered by the Container Recycling Authority established in Section 11 of this Act for the operation of the container deposit recycling program, county solid waste management programs, and recycling programs and activities including the marketing of recycled material.

SECTION 10. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Redemption centers shall receive a two-cent (\$0.02) handling fee for each container redeemed with the exception of aluminum containers unless the Container Recycling Authority established in Section 11 of this Act determines that the scrap value for aluminum is lower than the cost of recycling aluminum and includes aluminum in the payment of handling fees or makes similar adjustments to handling fees based on container type under Section 13 of this Act.

SECTION 11. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The Container Recycling Authority is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, which shall be a public body corporate and politic, performing functions and purposes essential to managing the container deposit program and disbursing moneys from the Kentuckians against trash fund. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870.
- (2) The Container Recycling Authority shall be composed of thirteen (13) members as follows:
- (a) The commissioner of the Department for Environmental Protection, or the commissioner's designee;
 - (b) The commissioner of the Department of Highways or the commissioner's designee;
 - (c) The commissioner of the Department for Local Government or the commissioner's designee;
 - (d) The director of the Kentucky Environmental Education Council or the director's designee;
 - (e) The director of the Container Recycling Authority as established in Section 12 of this Act;
 - (f) One (1) person appointed by the President of the Senate;
 - (g) One (1) person appointed by the Speaker of the House of Representatives;
 - (h) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Solid Waste Coordinators of Kentucky;
 - (i) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky Association of Counties;
 - (j) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky League of Cities;
 - (k) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky Farm Bureau;
 - (l) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky chapter of the Solid Waste Association of North America; and
 - (m) One (1) person appointed by the Governor, from a list of four (4) persons nominated by the Kentucky Scrap Processors and Recyclers Association.
- (3) Of the seven (7) members identified in paragraphs (h) to (m) of subsection (2) of this section and first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, and three (3) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. Members shall elect their own chair.
- (4) Seven (7) members of the authority shall constitute a quorum.
- (5) The members of the Container Recycling Authority shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the authority.

SECTION 12. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) In order to effectuate and administer Sections 1 to 18 of this Act, the Container Recycling Authority may hire a full-time director, who shall be qualified by training and experience to perform the duties of this office and carry out the purpose of Sections 1 to 18 of this Act, and who shall hold office at the pleasure of the authority. The salary of the director shall be determined by the authority. The director shall, upon the advice and consent of the authority, employ

and fix the compensation of such personnel as may be necessary to effectuate the provisions of Sections 1 to 18 of this Act.

- (2) The director shall, upon the advice and consent of the authority, provide for the allocation of the work and activities of all employees of the authority.

SECTION 13. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Container Recycling Authority shall:

- (1) Distribute money from the Kentuckians against trash fund as authorized by subsections (2) and (3) of Section 9 of this Act;
- (2) Establish guidelines for the use of funds and distribute fund money as authorized by subsection (4) of Section 9 of this Act, utilizing the framework provided by area solid waste management plans as established in KRS 243.43-340;
- (3) Incur debt in its own name and enter into financing agreements with state agencies of the Commonwealth or with a commercial bank, excluding issuing bonds;
- (4) Review handling fee rates as needed and make adjustments to the rates, taking into account the container type's scrap value offered to redemption centers by willing processors;
- (5) Make recommendations to the General Assembly about the types of beverage containers to include in the container deposit program;
- (6) Assist in the development and implementation of statewide public education programs;
- (7) Coordinate efforts among state agencies, nonprofit organizations, private businesses, and volunteer groups to facilitate an efficient use of resources to reduce litter and promote recycling;
- (8) Act as a state broker for local government and redemption centers seeking to sell redeemed containers and recyclable materials by contracting with processors, secondary material manufacturers, or other brokers;
- (9) Keep accurate books, records, and accounts of all entities making payments to, or receiving payments from, the Kentuckians against trash fund; and
- (10) Develop and submit an annual report by October 1 of each year, beginning October 1, 2002, to the General Assembly on the activities of the authority, the administration of fund moneys, and any recommendations for modification which would improve the container recycling program.

SECTION 14. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The Container Recycling Authority may borrow money in accordance with Section 13 of this Act to provide sufficient funds for implementing the container deposit program, including, but not limited to, amounts necessary to make loans or grants for establishing redemption centers and purchasing recycling equipment. The authority may pledge money from the Kentuckians against trash fund for the payment of principal and interest on loans.
- (2) The maximum amount of money that the authority may borrow from all state agencies shall not exceed five million dollars (\$5,000,000) to be repaid over a period not to exceed ten (10) years from the original loan date. The rate of interest shall be at the rate or rates or method of determining rates as the authority and lending agency determines. To minimize cash requirements and interest obligations, loans shall be executed as a line of credit against the lending agencies, so that only those funds actually required for container deposit program operations are borrowed as needed.
- (3) The Container Recycling Authority may receive and accept grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used to carry out the functions of the authority.

SECTION 15. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the Kentuckians against trash fund and container recycling program, and the costs of the audit shall be considered an administrative cost to be borne by the fund. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the Container Recycling Authority.

SECTION 16. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Counties receiving moneys according to Section 9 of this Act shall establish a line item in their budget to account for the money received.
- (2) The Container Recycling Authority shall establish by administrative regulations county reporting requirements for expenditure of funds and receipt of unobligated funds. If a county fails to comply with the requirements of these administrative regulations, money from the fund shall be withheld from the county for the next year.

SECTION 17. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Any dealer or consumer who violates Section 3 of this Act, and any redemption center or person who violates Section 6 of this Act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for an initial offense and not more than five thousand dollars (\$5,000) for each subsequent offense. Each day that a dealer or consumer violates Section 3 of this Act, and any redemption center or person violates Section 6 of this Act, shall constitute a separate offense.
- (2) All moneys collected under this section shall be deposited in the Kentuckians Against Trash fund.

SECTION 18. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Container Recycling Authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out Sections 1 to 18 of this Act. The authority shall not place a minimum refund value on any container other than a beverage container as defined in Section 1 of this Act.

SECTION 19. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The "Adopt-a-Highway Fund" is created as a special fund in the State Treasury. The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from investments of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.
- (2) The Transportation Cabinet may receive and accept grants, contributions of money, property, labor, or other things at value from any governmental agency, nonprofit organization, or private business to be used for the adopt-a-highway litter reduction program. Moneys received under this section shall be deposited in the adopt-a-highway fund.
- (3) The Transportation Cabinet shall administer the fund, and may make funds available for:
 - (a) Roadside litter cleanup;
 - (b) Litter control organizations as the department deems appropriate; and
 - (c) Public educational programs concerning litter problems.
- (4) The Transportation Cabinet shall coordinate its litter reduction efforts with the Container Recycling Authority established in Section 11 of this Act.
- (5) The Transportation Cabinet, beginning October 1, 2001 and by October 1 of each year thereafter, shall report to the General Assembly on the collection and use of money for the adopt-a-highway fund and on the activities of the highway litter reduction program.

SECTION 20. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, charter county government, or solid waste management area shall have a solid waste coordinator who shall be responsible for coordinating solid waste activities in that county or area.
- (2) A solid waste coordinator shall:
 - (a) Coordinate the implementation of an area solid waste management plan;
 - (b) Participate in the enforcement of county solid waste ordinances and state litter laws;
 - (c) Assist with the establishment of recycling programs;
 - (d) Assist the county or waste management district in improving existing waste collection and disposal systems;
 - (e) Maintain an inventory of open dumping activity and coordinate the cleanup of open dump sites;
 - (f) Develop budgets in connection with local solid waste management; and
 - (g) Assist with public education programs for schools and adults.
- (3) Counties may share the services of one (1) solid waste coordinator subject to approval by the cabinet.

SECTION 21. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall provide a toll-free phone line for the reporting of vehicles with persons who litter and unsecured loads. The cabinet shall publish and broadcast announcements throughout the state regarding the toll-free line and legal consequences of littering.
- (2) Upon receiving a report of litter or unsecured loads via the toll-free phone line, the cabinet shall notify the cabinet's Office of Inspector General and the proper law enforcement authorities as established in Section 25 of this Act who are responsible for enforcing the littering laws.
- (3) A person who testifies in court as a witness to littering shall be reimbursed reasonable expenses if the defendant is

convicted in accordance with Section 25 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly places or throws litter on any public or private property or in any public or private water, or who drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it, or who discharges sewage, minerals, oil products, or litter into any public waters or lakes within the state shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

Section 23. KRS 431.100 is amended to read as follows:

- (1) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.
- (2) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for Health Services for the provision of treatment and counseling programs for alcoholics.
- (3) Fines for violation of Section 22 of this Act ~~KRS 512.070~~ shall be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.
- (4) Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for matching funds for grants for providing services and programs to juvenile public offenders.
- (5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due the state or any other public officer paid to any person or organization other than one specifically required by statute nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the state if the defendant makes a payment to another person or organization.

Section 24. KRS 431.451 is amended to read as follows:

- (1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 149.370, 149.375, 149.385, 149.390, 149.395, 149.400, 149.401, 149.405, 150.170, 150.175, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 186.020, 186.050, 186.070, 186.190, 189.020, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.190, 189.205, 189.231 for first offense only, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), ~~and~~ 222.202, and Section 22 of this Act.
- (2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.665, 149.380, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, and 281.804.

Section 25. KRS 433.753 is amended to read as follows:

- (1) When any paper, waste material, litter, or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of ~~criminal~~ littering.
- (2) It shall be the duty of the Kentucky State Police, county sheriffs and police officers, county solid waste coordinators, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the ~~criminal~~ littering laws.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for commission of the offense of ~~criminal~~ littering.
- (4) Upon conviction in court, the court shall order the defendant to pay the reasonable costs of witnesses for the prosecution.

Section 26. KRS 433.757 is amended to read as follows:

- (1) When any litter as defined in KRS 512.010 is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated Section 22 of this Act ~~KRS 512.070~~.
- (2) It shall be the duty of officers of the Department of Fish and Wildlife Resources as provided in KRS 235.010 and KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions, as well as county solid waste coordinators provided in Section 20 of this Act, to enforce the provisions of Section 22 of this Act ~~KRS 512.070~~.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm, or corporation for a violation of Section 22 of this Act ~~KRS 512.070~~.

(4) Upon conviction in court, the court shall order the defendant to pay the reasonable costs of witnesses for the prosecution.

Section 27. KRS 224.01-010 is amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and

materials recovery;

- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
 - (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
 - 1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple

- family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;
2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
- (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
 - (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
 - (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
 - (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
 - (36) "NPDES" means National Pollutant Discharge Elimination System;
 - (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
 - (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
 - (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
 - (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
 - (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
 - (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
 - (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
 - (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers,

directors, or shareholders of five percent (5%) or more of stock or financial interest;

- (45) "Universal collection" means a municipal solid waste ~~curbside or end-of-driveway~~ collection system which is established by ordinance and approved by the cabinet and requires ~~participation by~~~~access for~~ each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 28. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in subsections (7), (8), and (9) of this section, each county, urban-county government, or charter county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, franchise, or under local permit.
- (2) When collection is provided by contract, franchise, or under local permit, the county, urban-county government, or charter county government shall require reports from the entity providing collection to document the number of households served, volume of solid waste collected, and destination of solid waste.
- (3) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection will be funded and enforced. In order to facilitate uninterrupted collection service, the amended plan shall include the method of billing and collecting pick-up fees from households or solid waste generators, the method for pursuing collection of delinquent fees, and the method for tracking households or solid waste generators moving into the county.
- (4) If a household or solid waste generator becomes delinquent in the payment of solid waste pick-up fees, the county, urban-county, or charter county government shall determine the reason for delinquency and pursue means to resolve the delinquency to ensure payment of solid waste pick-up fees. These means may include:
 - (a) Setting reduced solid waste pick-up fees for low income households; and
 - (b) Allowing an electric or other utility company to collect the solid waste pick-up fee for a commission or percentage of the total fees collected.
- (5) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recyclable material.
- (6) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, the rate of collection, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.
- (7) The county, urban-county government, or charter county government may enter into agreements with any person for performing the responsibilities described in this section, including cities within its geographic boundaries, but the county, urban-county government, or charter county government shall be responsible for providing the universal collection program described in this section, except any city of the first or second class having sole responsibility for

developing its portion of the solid waste plan shall be responsible for providing the universal collection within its jurisdiction.

- (8) A county, urban-county government, or charter county government shall be exempted from the requirements of this section if it has a solid waste collection program that meets or exceeds an eighty-five percent (85%) collection rate of household solid waste, and the cabinet approves the exemption.
- (9) If after one (1) year, a county, urban-county government, charter county government, or city fails to meet a collection rate of eighty-five percent (85%) for household solid waste for three (3) consecutive months, the cabinet shall issue a notice of intent to operate the universal collection program. Along with the notice of intent, the cabinet shall make recommendations on how to increase the collection rate. If the county, urban-county government, charter county government, or city fails to meet the collection rate for household solid waste within ninety (90) days following the notice of intent, the cabinet shall operate the universal collection program. The Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for any county, urban-county government, charter county government, or city that has a universal collection program operated by the cabinet.
- (10) A commercial or industrial entity which transports or contracts for the transport of solid waste it generates or which operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government. This entity may be required by the county, urban-county government, or charter county government to periodically show proof that its solid waste is disposed of properly.
- (11) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out this section.

SECTION 29. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) In order to provide universal collection as established in Section 26 of this Act, a county, urban-county government, or charter county government may collect solid waste pick-up fees in advance by combining the pick-up fees with the property tax bill for the property where the solid waste pick-up is made. The fees shall be limited to operational costs.
- (2) The pick-up fee when combined with the property tax bill shall be clearly set out as the amount owed for solid waste pick-up services and shall in no way be represented as an assessment based on the value of the property.
- (3) If the owner of the property is not the occupant of the property where the solid waste is picked up, the owner of the property shall pay the solid waste pick-up fees for the property.
- (4) If the owner of the property uses the property as a vacation home for a period of three (3) months or less, the county, urban-county government, or charter county government may waive the solid waste pick-up fee portion of the property tax bill if the owner of the property requests a waiver. In requesting the waiver, the owner shall certify that the property is a vacation home, and that the owner will remove solid waste from the property in a legal manner or temporarily subscribe for universal collection service while the property is in use.
- (5) Sheriffs, property valuation administrators, and other appropriate local officials shall cooperate with a county, urban-county government, or charter county government in carrying out and enforcing this section.

Section 30. KRS 224.43-310 is amended to read as follows:

- (1) The Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky is designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The cabinet shall have primary responsibility for coordinating the solid waste planning and management activities of waste management districts, counties, cities, area development districts, and any combination thereof and for the approval of solid waste management facilities. In doing so it shall be the goal of the cabinet to reduce the amount of solid waste disposed in municipal solid waste disposal facilities within the Commonwealth and to encourage regional management of solid waste.
- (2) The cabinet shall have the primary responsibility to develop, review, report on, and triennially update a statewide solid waste reduction and management plan. A draft plan shall be prepared and made available for public inspection by December 1, 1991; a proposed final plan shall be submitted to the General Assembly by February 1, 1992; and a final plan shall be submitted to the General Assembly by March 1, 1992. The plan shall be designed to address the following:
 - (a) Coordination of area plans and provision of support for area planning efforts;
 - (b) Reductions in solid waste disposed in municipal solid waste disposal facilities within the Commonwealth by actively promoting reuse and reduction consistent with the goals established by KRS 224.43-010;
 - (c) Adequate capacity exists for recycling or disposal of solid waste generated within the Commonwealth for a five (5), ten (10), and twenty (20) year period;
 - (d) Disposal capacity for solid waste generated in the Commonwealth is maintained if the cabinet acts to close a solid waste management facility;
 - (e) Regional alternatives for waste reduction and management are encouraged in the planning process;
 - (f) Priority in grants and loans is afforded for regional waste reduction and management alternatives;

- (g) Solid waste management plans meet minimum standards and procedures established by the cabinet in administrative regulations;
 - (h) A description of the status of solid waste reduction and management efforts in Kentucky;
 - (i) Identification of state actions and responsibilities necessary to implement this chapter; and
 - (j) Identification of problems impeding the attainment of the policies and goals of this chapter.
- (3) The plan shall not establish maximum disposal capacity limitations for the Commonwealth.
- (4) The cabinet, beginning July 1, 1992, shall report annually to the Governor and to the General Assembly on the status of solid waste management in the Commonwealth. The report filed July 1, 1992, shall present the current status of solid waste planning and management in the Commonwealth. Subsequent annual reports shall include, but not be limited to:
- (a) The status of solid waste planning and management;
 - (b) The number and types of recycling and solid waste management facilities in the Commonwealth;
 - (c) The remaining permitted capacity of each permitted solid waste management facility;
 - (d) The number and types of solid waste grants or loans made to cities, counties, waste management districts, and area development districts;
 - (e) A compilation and analysis of solid waste reduction and management data provided to the cabinet;
 - (f) A statement of progress achieved in meeting the goals established by KRS 224.43-010;
 - (g) A statement of progress achieved in solid waste management education;
 - (h) A statement of progress achieved in establishing regional solid waste management approaches;
 - (i) *A statement of progress achieved in the implementation and maintenance of universal collection programs by counties;*
 - (j)* Any revisions in the statewide solid waste reduction and management plan; and
 - (k)(i)* Recommendations for improving the reduction and management of solid waste in the Commonwealth.
- (5) Beginning January 1, 1993, each governing body shall report annually to the cabinet on the status of solid waste management in its area. The annual report shall include, but not be limited to:
- (a) The amount of in-area and out-of-area municipal solid waste disposed in municipal solid waste disposal facilities in the area;
 - (b) The progress on the reduction in municipal solid waste disposal in the area since the previous reporting period and total cumulative progress made toward meeting the state reduction goal described in KRS 224.43-010;
 - (c) The remaining permitted capacity of disposal facilities;
 - (d) Recycling and composting activities in existence;
 - (e) Public information and education activities during the reporting period;
 - (f) *The rate of collection by universal collection programs;*
 - (g)* Fees for solid waste management assessed and collected; and
 - (h)(g)* Any other pertinent information as may be required by the cabinet.
- (6) There is created a Solid Waste Reduction and Management Plan Advisory Committee to advise and review a draft and final solid waste reduction and management plan and any amendments of the plan prepared by the cabinet under subsection (2) of this section.
- (7) The Solid Waste Reduction and Management Plan Advisory Committee shall consist of the secretary of the Natural Resources and Environmental Protection Cabinet or his designee who shall serve as chairman, one (1) member of the Senate to be appointed by the President, one (1) member of the House of Representatives to be appointed by the Speaker of the House of Representatives, and nine (9) members to be appointed by the Governor as follows:
- (a) Two (2) members shall represent the interest of counties;
 - (b) Two (2) members shall represent the interests of cities, one (1) from a first or second class city or urban-county government and one (1) from either a third, fourth, fifth, or sixth class city;
 - (c) One (1) member shall represent the interests of industrial generators of solid wastes;
 - (d) One (1) member shall represent the private recycling industry;
 - (e) One (1) member shall represent the private solid waste disposal industry;
 - (f) One (1) member shall be from a statewide environmental advocacy organization; and
 - (g) One (1) member shall represent the public-at-large.
- (8) Vacancies on the committee shall be filled in the same manner as the original appointment occurred.
- (9) Nonlegislative members of the committee shall serve without pay and shall receive their reasonable and necessary

expenses in connection with the performance of their duties.

- (10) The committee shall meet at the call of the chairman. The committee may hold public hearings or make site visits as necessary. A quorum of its members is necessary to take action on any matter. A majority vote of the total members present must approve any action.
- (11) Following adoption of the statewide solid waste reduction and management plan, the committee shall remain in service to provide guidance and advice to the cabinet in the implementation of the plan. The committee shall no longer remain in service after the 1994 General Assembly unless the 1994 General Assembly takes action to continue the committee.

Section 31. KRS 224.10-620 is amended to read as follows:

The Kentucky Environmental Education Council, the Natural Resources and Environmental Protection Cabinet, *the Container Recycling Authority*, and the Department of Education shall establish a program to educate the citizens of the Commonwealth of the importance of reducing and managing waste effectively, the need for individual action to reduce the amount and toxicity of solid waste being disposed, the need for alternative disposal methods to landfilling for toxic materials commonly used in or around households such as cleaners, solvents, pesticides, and automotive and paint products, and the necessity of implementing environmentally protective management and disposal mechanisms for the solid waste that is generated. In helping develop the educational programs, the Department of Education shall identify and adopt mechanisms to inform students throughout the Commonwealth of the importance of reducing and managing solid waste effectively.

Section 32. KRS 224.10-650 is amended to read as follows:

- (1) The secretary of the Natural Resources and Environmental Protection Cabinet shall assume the primary responsibility in state government for implementing a source separation and collection program for waste materials generated as a result of state agency operations, including, at a minimum, aluminum, high grade office paper, and corrugated paper.
- (2) The cabinet shall establish procedures for collection and storage of recovered material and contractual or other arrangements for transportation and purchase of recovered materials. Every state agency of the executive, legislative, and judicial branches of state government and all state-supported institutions of higher education, in cooperation with the cabinet, shall develop a plan to conduct source separation and collection activities for recovered materials.
- (3) *Beverage containers as defined in Section 1 of this Act collected through the source separation and collection program by the cabinet or by any other state agency or institution from an approved source separation collection program may be redeemed at an approved redemption center according to Sections 1 to 18 of this Act.*
- (4) A state agency or institution may elect to operate its own source separation program upon review and approval by the cabinet.

~~(5)~~~~(4)~~ The secretary of the Natural Resources and Environmental Protection Cabinet shall take or cause to be taken such actions as may be necessary to:

- (a) Identify the geographical location of existing or potential markets for recovered materials and energy generated;
- (b) Identify the economic and technical barriers to the use of recovered materials and energy generated;
- (c) Identify sound technologies, techniques, and processes for resource recovery and energy generated applicable to both urban and rural areas of Kentucky;
- (d) Encourage the development of new uses for recovered materials; and
- (e) Encourage and promote the development of new markets for recovered materials.

~~(6)~~~~(5)~~ Funds received by the Natural Resources and Environmental Protection Cabinet from the source separation and collection program as described in this section shall be utilized by the cabinet to defray the cost of conducting the activities outlined in this section. Funds received by any other state agency or institution from an approved source separation collection program may be used to offset costs of the program. Any moneys generated by the cabinet or other state agencies or institutions in excess of the amounts needed to conduct these activities shall be placed in the resource conservation and recovery fund and be used for other litter abatement activities.

~~(7)~~~~(6)~~ There is created within the State Treasury a trust and agency fund, which shall not lapse, to be known as the resource conservation and recovery fund. Any appropriations, gifts, grants or program revenues received by the cabinet relating to resource recovery and litter abatement shall be deposited in the fund. Moneys in the fund shall be used for resource recovery and litter abatement activities.

Section 33. KRS 224.10-660 is amended to read as follows:

- (1) The Kentucky Recycling and Marketing Assistance Program, referred to in this section as the "program," is created to develop a recycling infrastructure within the Commonwealth. The program shall:
 - (a) Encourage the collection, processing, and marketing of recovered materials;
 - (b) Provide assistance for the development of community and regional recycling;
 - (c) Identify resources to help market recyclables; and
 - (d) Promote the development of the market for recyclables.

- (2) The Natural Resources and Environmental Protection Cabinet shall administer the program and assist local governments and commercial businesses seeking to recycle materials.
- (3) The ~~program~~~~secretary of the Natural Resources and Environmental Protection Cabinet~~ shall advise the Container Recycling Authority created in Section 11 of this Act as needed in contracting with processors, secondary material manufacturers, or other brokers for the marketing of recovered beverage containers~~create a Kentucky Recycling and Marketing Assistance Advisory Committee to act in an advisory capacity to the cabinet. In addition to its other duties, this committee shall develop and submit an annual report by October 1 to the Interim Committee on Agriculture and Natural Resources~~.
- (4) The Natural Resources and Environmental Protection Cabinet shall develop and submit an annual report on the activities and progress of the program by October 1 to the Interim Joint Committee on Agriculture and Natural Resources.

Section 34. The following KRS sections are repealed:

224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion.

512.070 Criminal littering.

Section 35. There is appropriated out of the general fund in the State Treasury for the fiscal year 2000-2001, three million dollars (\$3,000,000) to the Container Recycling Authority created by Section 11 of this Act for the purpose of developing and implementing a container recycling program and to further carry out the provisions of Sections 1 to 18 of this Act.

Section 36. Sections 1 to 18 of this Act take effect July 1, 2001.

The Committee Amendment No. 1 to the Committee Substitute to **HB 1** is as follows:

On page 3, line 8, after "window" insert "or a restaurant that provides carry-out or "to go" service".

The Committee on State Government reported **HB 123**, **HB 515**, **HB 538**, **HB 540**, **HB 561**, **HB 610**, **HCR 47**, with Committee Substitute attached thereto, **HJR 61**, and **SCR 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 123, AN ACT relating to the designation of the official rock of Kentucky.

WHEREAS, the colorful rock, Kentucky agate, bears the name of this great Commonwealth; and

WHEREAS, this beautiful Kentucky resource, characterized by delicate bands of blue, red, orange, black, yellow, or gray shades, is often displayed at local rock shows and used as an ornamental material and in semiprecious jewelry; and

WHEREAS, designation of a state rock will promote interest in geology, the hobby of mineral collecting, and the lapidary arts;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Kentucky agate is named and designated as the official rock of Kentucky.

HB 515, AN ACT relating to the Department for the Blind.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.470 is amended to read as follows:

- (1) There is created within the Cabinet for Workforce Development the Department for the Blind.
- (2) The commissioner shall be appointed by the Governor upon the recommendation of the secretary of the Cabinet for Workforce Development to whom he shall be directly responsible.
- (3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the Cabinet for Workforce Development is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the commissioner.
- (4) (a) The Kentucky Department for the Blind State Rehabilitation~~Advisory~~ Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended~~Title I,~~

~~Subtitle B Section 126 of the Rehabilitation Act Amendments of 1992~~. Members of the ~~[advisory]~~ council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the ~~[advisory]~~ council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.

- (b) 1. Except as provided in subparagraph (2) of this paragraph, any vacancy occurring in the membership of the Department for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.
2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(c) Each member of the Department for the Blind ~~State Rehabilitation~~~~[Advisory]~~ Council may receive a per diem of one hundred dollars (\$100), not to exceed six hundred dollars (\$600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind ~~State Rehabilitation~~~~[Advisory]~~ Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended~~[Title I part A of the Rehabilitation Act Amendments of 1992, Pub. L. 102-569]~~.

- (5) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.
- (6) At the close of each biennium, the department shall prepare a financial report and present it to the secretary of the Cabinet for Workforce Development and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.
- (7) The department shall coordinate its functions with other appropriate public and private agencies.
- (8) The department shall perform all other duties as required of it by law.
- (9) The commissioner shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. ~~[Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, disability, or national origin. Department employees shall receive compensation and travel expenses as allowed other employees of the Commonwealth.]~~
- (10) There shall be created under the authority of the department, to be directed by the commissioner, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.
- (11) There shall be established under the authority of the department to be directed by the commissioner, a Division of Business Enterprises. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.
- (12) There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department, at all times, shall be authorized to provide industrial evaluation, training, and employment.
- (13) The department shall provide staff services which shall include fiscal management, staff development and training,

program development and evaluation, public information office, and other staff services as may be deemed necessary.

- (14) The provisions of any other statute notwithstanding, the commissioner is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

HB 538, AN ACT relating to compensation of property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.590 is amended to read as follows:

- (1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Revenue Cabinet annually. ~~[(1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars (\$1,000,000) of assessment on the first one hundred million (\$100,000,000) and one half (1/2) point per million dollars (\$1,000,000) of assessment over one hundred million (\$100,000,000).~~

Number of Points		Grade
At Least	But Less Than	Classification
5,000		15
1,000	5,000	14
350	1,000	13
300	350	12
225	300	11
150	225	10
125	150	9
100	125	8
	100	7

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

- (2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the cabinet shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the cabinet increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no effect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Revenue Cabinet the total number of years, not to exceed four (4) years, that the person has previously served in the office. The cabinet shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

<u>County Population by Group</u>	<u>Steps and Salary for Property Valuation Administrators</u>			
	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
<u>Group I</u>				
0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
<u>Group II</u>				
5,000-9,999	49,513	50,888	52,263	53,639
<u>Group III</u>				

<u>10,000-19,999</u>	<u>53,639 55,014 56,389 57,765</u>
<u>Group IV</u>	
<u>20,000-29,999</u>	<u>55,702 57,765 59,828 61,891</u>
<u>Group V</u>	
<u>30,000-44,999</u>	<u>59,828 61,891 63,954 66,017</u>
<u>Group VI</u>	
<u>45,000-59,999</u>	<u>61,891 64,641 67,392 70,143</u>
<u>Group VII</u>	
<u>60,000-89,999</u>	<u>66,017 68,768 71,518 74,269</u>
<u>Group VIII</u>	
<u>90,000-499,999</u>	<u>68,080 71,518 74,957 78,395</u>
<u>Group IX</u>	
<u>500,000 and up</u>	<u>72,206 75,644 79,083 82,521</u>

- [The grade classification system provided in subsection (1) of this section shall in all respects be equivalent to the grade classification for state employees as established by the Personnel Cabinet and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the Revenue Cabinet, including the amount of assessment on which taxes are deferred under the provisions of the Agricultural and Horticultural Land Act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.]
- (3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on the effective date of this Act, and shall not be retroactive to the preceding January 1.
- (b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1 [The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter].
- (c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an increase of six hundred eighty-seven dollars and sixty-seven cents (\$687.67) for each forty (40) hour training unit successfully completed. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Revenue Cabinet. Each unit shall be available to property valuation administrators in each office based on continuing service in that office.
- (4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on the effective date of this Act shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on the effective date of this Act [Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve (12) months, be advanced one (1) step in grade; except that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one (1) step in grade effective January 1 following completion of at least six (6) months' service. The Revenue Cabinet is authorized to make grade classification changes corresponding to any approved for cabinet employees in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the cabinet may extend cost-of-living increases approved for cabinet employees to the property valuation administrators by advancement in grade].
- (5) Deputy property valuation administrators and other authorized personnel [likewise] may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service [and given such other benefits relating to reclassification of position or cost of living adjustments as are provided in subsection (4) of this section for property valuation administrators]. The Revenue Cabinet may make grade classification changes corresponding to any approved for cabinet employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the cabinet may extend cost-of-living increases approved for cabinet employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.
- (6) Beginning with the 1990-1992 biennium, the Revenue Cabinet shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units

shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. ~~[Until that time the property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents (\$0.0125) on each one hundred dollars (\$100) of the property assessed, including motor vehicles and the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars (\$250,000,000) and one cent (\$0.01) on each one hundred dollars (\$100) of the property assessed over two hundred fifty million dollars (\$250,000,000); but]~~ The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Revenue Cabinet. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

- (7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Revenue Cabinet a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Revenue Cabinet shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.
- (8) Each property valuation administrator may appoint any persons approved by the Revenue Cabinet to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Revenue Cabinet and shall be subject to the approval of the Revenue Cabinet. The Personnel Cabinet shall provide advice and technical assistance to the Revenue Cabinet in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Revenue Cabinet in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Revenue Cabinet prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.
- (9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to

County Tax of:

At Least	But Less Than	Amount
----	\$100,000,000	\$0.005 for each \$100 of the first \$50,000,000 and \$0.002 for each \$100 over \$50,000,000.
\$100,000,000	150,000,000	\$0.004 for each \$100 of the first \$100,000,000 and \$0.002 for each \$100 over \$100,000,000.
150,000,000	300,000,000	\$0.004 for each \$100 of the first \$150,000,000 and \$0.003 for each \$100 over \$150,000,000.
300,000,000	----	\$0.004 for each \$100.

- (10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to

County Tax of:

At Least	But Less Than	Limit
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----	\$ 700,000,000	\$ 25,000
\$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	--	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

- (11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Revenue Cabinet only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.
- (12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.
- (13) The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section shall be exercised by the urban-county government.
- (14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars (\$100,000) for any urban-county government with an assessment subject to countywide tax of less than three billion dollars (\$3,000,000,000), one hundred twenty-five thousand dollars (\$125,000) for an urban-county government with an assessment subject to countywide tax between three billion dollars (\$3,000,000,000) and five billion dollars (\$5,000,000,000), and two hundred thousand dollars (\$200,000) for an urban-county government with an assessment subject to countywide tax in excess of five billion dollars (\$5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.
- ~~(15) Notwithstanding the provisions of subsection (1) of this section, any property valuation administrator whose county classification would be reduced from that existing as of June 17, 1978, shall not have his compensation reduced but shall continue to be compensated at his then current salary until such time as an increase in points earned by his county or a cabinet adjustment, under subsection (4) of this section, qualify him for an increase in compensation.~~
- ~~(16) The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.~~
- ~~(17) Notwithstanding the provisions of subsection (1) of this section, the points awarded for the assessed value of property in the county for the calculation of the compensation of the property valuation administrator for 1996 and subsequent years shall be equal to the number of points awarded for the assessed value of property for 1995, or the number of points required by the provisions of subsection (1) of this section, whichever is greater.~~
- ~~(18)~~ Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 2. KRS 132.385 is amended to read as follows:

- (1) The cabinet shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and cabinet employees. Courses may be created and taught by cabinet personnel or the cabinet may adopt specific courses offered by appropriate professional organizations.
- (2) The cabinet shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and cabinet employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration. Correspondence course credit administered by the cabinet may be substituted for no more than thirty (30) hours of the one hundred twenty (120) hours required for the "certified Kentucky assessor" (CKA) designation, and for no more than fifteen (15) hours of the additional ninety (90) hours required for the "senior Kentucky assessor" (SKA) designation.
- ~~[(3) Any property valuation administrator awarded the certified Kentucky assessor designation shall receive a five percent (5%) salary increase effective the first day of the month following receipt of the designation. Any property valuation administrator awarded the senior Kentucky assessor designation shall receive an additional five percent (5%) salary increase effective the first day of the month following receipt of the designation.]~~

Section 3. The following KRS sections are repealed:

132.591 Alternative compensation scheme for administrator, contingent on state funding.

132.595 Adjustment of compensation.

HB 540, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.280 is amended to read as follows:

- (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice Cabinet~~[office of the Attorney General of Kentucky]~~.
- (2) ~~[The Attorney General of Kentucky may, by memorandum of agreement, provide for the operation of a Criminal Justice Statistical Analysis Center by the Urban Studies Center of the College of Urban and Public Affairs, University of Louisville, under the authority of the Attorney General.]~~ The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the Kentucky Criminal Justice Council~~[Office of the Attorney General]~~.
- (3) The Criminal Justice Statistical Analysis Center shall:
 - (a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky by:
 1. Conducting periodic needs assessments of criminal justice agencies;
 2. Analyzing offender-based tracking data;~~[-and]~~
 3. Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky; and
 4. Supporting the implementation of a statewide Unified Criminal Justice Information System through the Unified Criminal Justice Information System Committee of the Kentucky Criminal Justice Council.
 - ~~(b) [Increase storage capacity and enhance accessibility of criminal justice statistical data by:~~
 1. ~~Assisting in establishing a statewide computerized database; and~~
 2. ~~Maintaining selective criminal justice data sets at the University of Louisville for ongoing analysis and dissemination;~~
 - ~~(c)]~~ Increase the ability of statistical users to translate data and research results into practice by:
 1. Publishing research results and statistical data that are requested by criminal justice agencies; and
 2. Conducting conferences and workshops on the use of statistical information;~~[-and~~
 3. ~~Establishing a statewide statistical association;]~~
 - ~~(c) [(d)]~~ Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and
 - ~~(d) [(e)]~~ Strengthen the relationship between the Kentucky criminal justice agencies and the National Bureau of Justice

Statistics, United States Department of Justice, by:

1. Providing justice statistics to the Bureau of Justice Statistics as required; and
 2. Serving as a clearinghouse for Bureau of Justice Statistics materials.
- (4) The ~~Kentucky Justice Cabinet~~~~[Office of the Attorney General]~~ may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the ~~Kentucky Justice Cabinet through the Kentucky Criminal Justice Council~~~~[Office of the Attorney General]~~ may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

HB 561, AN ACT relating to public protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.260 is amended to read as follows:

Funds allotted by the commissioner of ~~housing, buildings and construction~~~~[insurance]~~ shall be expended by direction of the governing body of the city or district only for the maintenance of fire departments, the purchase, maintenance and repair of fire apparatus and equipment including buildings housing such fire departments. Cities of the fifth and sixth classes, or fire prevention districts, with population not exceeding three thousand (3,000) may expend allotted funds for acquisition of lands or buildings, and for expenses of firefighters in attending schools and conventions not exceeding an amount prescribed by regulation.

Section 2. KRS 17.270 is amended to read as follows:

The commissioner of ~~housing, buildings and construction~~~~[insurance]~~ shall make available at all times a list of firefighting equipment, apparatus, and other fire protection items which may be purchased with allotted moneys. No expenditures shall be made for any item not appearing on the list without first obtaining the written approval of the commissioner of ~~housing, buildings and construction~~~~[insurance]~~.

Section 3. KRS 95A.040 is amended to read as follows:

- (1) The commission shall have authority to make full and complete studies, recommendations and reports to the Governor and the Legislature for the purpose of:
 - (a) Suggesting minimum standards and education of fire protection personnel appointed to positions in municipal fire departments, who are to be engaged in fire protection to include fire suppression, fire prevention, arson investigation and other allied fields;
 - (b) Suggesting basic minimum courses of training for fire protection personnel;
 - (c) Suggesting procedure for the certification of fire protection personnel and the certification of fire protection instructors.
- (2) The commission shall have the authority to:
 - (a) Certify fire protection training and education programs as having attained the minimum required standards suggested by such commission;
 - (b) Certify instructors as having qualified as fire protection instructors under such conditions as the commission may prescribe;
 - (c) Direct research in the field of fire protection and accept gifts and grants for such purposes;
 - (d) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.
- (3) The commission shall have authority to receive and to the extent required by federal law to disburse all grants and funds from the federal government for the purpose of fire protection personnel training and education. Except as otherwise provided by law, the Department of ~~Housing, Buildings and Construction~~~~[Insurance]~~ shall administer all state programs and all state and federally funded grant programs related to fire protection personnel training and education.

Section 4. KRS 198B.664 is amended to read as follows:

- (1) Every master heating, ventilation, and air conditioning contractor's license and journeyman heating, ventilation, and air conditioning mechanic's license issued by the board~~[shall expire on June 30 of each year and]~~ may be renewed annually, upon payment of a renewal fee~~[prior to July 1 of each year]~~. Failure to renew shall cause the license to expire.
- (2) Applications for restoration may be made within ninety (90) days of expiration of a license upon payment of the renewal fee, payment of a restoration fee, and if applicable proof of insurance as required by KRS 198B.668.
- (3) Those persons previously licensed by the board as a master heating, ventilation, and air conditioning contractor and not engaged in the practice of heating, ventilating, and air conditioning contracting in the Commonwealth may apply and be granted inactive status by the board in accordance with administrative regulations promulgated by the board. Licensees granted inactive status shall not retain the right to statewide practice of heating, ventilation, and air conditioning contracting. An inactive license shall not be a valid license. A licensee on inactive status may petition the board for

restoration of a license to practice actively. The petitioner shall pay a reactivation fee, provide proof of the satisfaction of all other requirements as determined by the board, and obtain the insurance as required by KRS 198B.668.

Section 5. KRS 198B.686 is amended to read as follows:

- (1) Effective July 1, 1995, any person for whom licensure or certification is required who is not licensed or certified by the board and practices heating, ventilation, and air conditioning contracting services shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.
- (2) Any person who advertises or otherwise holds himself out as being a licensed master or journeyman heating, ventilation, or air conditioning contractor and is not so licensed shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.

HB 610, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.

- (k) Commission on Correction and Community Service.
- 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Office of General Counsel.
 - (g) Office of Public Affairs.
 - (h) Office of Personnel Management.
 - (i) Office of Minority Affairs.
 - (j) Office of Environmental Affairs.
 - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department of Job Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.

- (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:
- (a) Department for Social Insurance.
 - (b) Department for Social Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management and Economic Analysis.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) Department of Information Systems.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Pollution Abatement Authority.
 - (j) Kentucky Savings Bond Authority.
 - (k) Deferred Compensation Systems.
 - (l) Office of Equal Employment Opportunity Contract Compliance.
 - (m) Office of Capital Plaza Operations.
 - (n) County Officials Compensation Board.

- (o) Kentucky Employees Retirement Systems.
 - (p) Commonwealth Credit Union.
 - (q) State Investment Commission.
 - (r) Kentucky Housing Corporation.
 - (s) Governmental Services Center.
 - (t) Kentucky Local Correctional Facilities Construction Authority.
 - (u) Kentucky Turnpike Authority.
 - (v) Historic Properties Advisory Commission.
 - (w) Kentucky KARE Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) ~~Governor's Council on Vocational Education.~~

- ~~(h)}~~ The State Board for Proprietary Education.
- ~~(h){(i)}~~ The Foundation for Adult Education.
- ~~(i){(j)}~~ Office of Training and Reemployment~~[The Kentucky Job Training Coordinating Council]~~.
- ~~(j){(k)}~~ Office of General Counsel.
- ~~(k){(l)}~~ Office of Communication Services.
- ~~(l){(m)}~~ Office of Development and Industry Relations.
- ~~(m){(n)}~~ Office of Workforce Analysis and Research.
- ~~(n){(o)}~~ Office for Administrative Services.
- ~~(o){(p)}~~ Office for Policy and Budget.
- ~~(p){(q)}~~ Office of Personnel Services.
- ~~(q){(r)}~~ Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky KARE.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
 - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 2. KRS 151B.020 is amended to read as follows:

- (1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.
- (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:
 - (a) The Department for Adult Education and Literacy, which is created by KRS 151B.023;
 - (b) The Department for Technical Education, which is created by KRS 151B.025;
 - (c) The Department of Vocational Rehabilitation, which is created by KRS 151B.185;
 - (d) The Department for the Blind, established by KRS 163.470;
 - (e) The Department for Employment Services, which is created by KRS 151B.280;
 - (f) The State Board for Adult and Technical Education, which is created by KRS 151B.095;
 - ~~(g) The Governor's Council on Vocational Education, established by KRS 163.086;~~
 - ~~(h)}~~ The State Board for Proprietary Education, established by KRS 165A.340;

~~(h)(1)~~ The Foundation for Adult Education, established by KRS 151B.130;
~~(i)~~ ~~The Kentucky Job Training Coordinating Council, established by KRS 151B.220;~~
~~(j)(4)~~ The Unemployment Insurance Commission established by KRS 341.110;
~~(j)(4)~~ The Office of Training and Reemployment created in KRS 151B.260; and
~~(k)(m)~~ The Office of School-to-Work, established by KRS 151B.250.

- (3) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services. The Office for Administrative Services shall contain the Divisions of Fiscal Services, Computer Services, and Facilities Management. Each division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.
- (4) The secretary of the Cabinet for Workforce Development and his designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
- (5) The secretary of the Cabinet for Workforce Development may delegate any duties of his office to employees of the cabinet as he deems necessary and appropriate, unless otherwise prohibited by statute.
- (6) The secretary of the Cabinet for Workforce Development shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 3. KRS 151B.215 is amended to read as follows:

- (1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.
- (2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.
- (3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.
- (4) The objectives of the committee shall include, but shall not be limited to, the following:
 - (a) To coordinate and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;
 - (b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;
 - (c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;
 - (d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;
 - (e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;
 - (f) To provide information and training to user groups on new programs and resources which are available for

utilization in the enhancement of common endeavors;

- (g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and
 - (h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.
- (5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:
- (a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;
 - (b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;
 - (c) The executive director of the Bluegrass State Skills Corporation;
 - (d) ~~The **commissioner of the Department for Technical Education**~~~~executive director of the Governor's Council on Vocational Education~~;
 - (e) The commissioner of the Department of Vocational Rehabilitation;
 - (f) The commissioner of the Department for Adult Education and Literacy;
 - (g) The commissioner of the Department for the Blind;
 - (h) The two (2) chancellors of the Kentucky Community and Technical College System;
 - (i) A representative from the Kentucky Council on Postsecondary Education;
 - (j) A representative from the Kentucky Chamber of Commerce; and
 - (k) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.
- (6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.
- (7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.
- (8) The committee shall be attached to the Cabinet for Workforce Development.
- (9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 4. KRS 165A.340 is amended to read as follows:

- (1) There is hereby established a State Board for Proprietary Education which shall be attached to the Cabinet for Workforce Development and shall consist of ~~eleven (11)~~~~twelve (12)~~ voting members to be appointed by the Governor as follows:
- (a) Three (3) members appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
 - (b) Two (2) members representative of technical schools appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools; **and**
 - (c) Six (6) members representative of the public at large; ~~and~~
 - ~~(d) One (1) ex officio member with voting powers, representative of the Governor's Council on Vocational Education.~~
- (2) Upon expiration of each of the respective terms of the members first appointed, the term of each successor shall be four (4) years or until his successor shall be appointed and qualified. At the time of the original appointments, the terms of board members will be staggered so that, as nearly as mathematically possible, they fall into three (3) classes. The first class will have two (2) year terms; the second class will have three (3) year terms; and the third class will have four (4) year terms.
- (3) Members of the board shall annually elect one (1) of their number as chairman and the board may employ and fix the compensation of the director and employ and fix the compensation of all personnel required by it for the administration of the provisions of this chapter. The board may make all rules and regulations, including the establishment of fees and other charges consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.
- (4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places as the board may designate and the majority of the members shall constitute a quorum.

- (5) The board may sue and be sued in its own name.
- (6) The members of the board shall receive one hundred dollars (\$100) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.
- (7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.
- (8) The board shall have the power to subpoena witnesses and school records as it deems necessary.

Section 5. The following KRS sections are repealed:

151B.220 Kentucky Job Training Coordinating Council.

163.086 Governor's Council on Vocational Education.

HCR 47, A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Risk Management Technical Study Group to develop a standard set of issues that should be considered in the design and operation of any insurance-type program funded by the Commonwealth.

WHEREAS, programs in the Commonwealth that use government funds to provide insurance, or insurance-like protection to specified individuals, suffer significant problems in achieving that protection in a manner that delivers acceptable quality service at a reasonable cost to the state; and

WHEREAS, these programs share similar problems in establishing sophisticated insurance-type programs without the necessary expertise; and

WHEREAS, adequate data collection and analysis capabilities necessary to effectively manage an insurance-type program are absent; and

WHEREAS, the various programs have not developed successful designs for insurance-type programs; and

WHEREAS, policy makers have not been given accurate information regarding the number and expertise of staff necessary to design and run a successful insurance-type program; and

WHEREAS, insurance-type programs share a consistent set of fairly technical issues and procedures in successful insurance-type-program design, and the study of these issues and procedures would benefit current and future insurance-type programs in the Commonwealth.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall establish a Risk Management Technical Study Group to develop a standard set of issues that should be considered in the design and operation of any insurance-type program funded by the Commonwealth. The study group shall meet beginning not later than October 1, 2000, and shall report back to the Legislative Research Commission with a standard set of guidelines and procedures no later than August 15, 2001.

Section 2. The study group should be composed of twelve technical analysts drawn from the Executive and Legislative Branches, state universities, directors of state insurance-type programs, and the Legislative Research Commission staff. The Legislative Research Commission shall appoint the members of the technical study group.

Section 3. The technical study group is charged to submit a report to the Legislative Research Commission that addresses, to the fullest extent possible, the following questions:

- (a) What are the advantages and disadvantages to the Commonwealth of various insurance payment arrangements, including fee-for-service, capitation, and combination arrangements? Are there new payment arrangements that should be considered?
- (b) What are the financial incentives for recipients and providers under each payment arrangement?
- (c) How does the establishment of the program as an entitlement for recipients change its dynamics?
- (d) What are the key implementation issues associated with each payment arrangement? What is a reasonable time for implementation and what are the minimum staff resources recommended?
- (e) What specific oversight mechanisms are needed in each payment arrangement to safeguard program quality and fiscal accountability? What data collection and analysis protocols are recommended?
- (f) What procedures have been adopted by existing state insurance-type programs that improved their operations and what procedures have proven inadequate? What should we learn from our successes and failures? and
- (g) Should a permanent risk management consulting team be formed in the Executive Branch to advise program managers on technical issues? If so, what should be the makeup of the team and its ongoing responsibilities?

Section 4. Staff services to be utilized in completing this study group are estimated to cost \$30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the

Commission.

The Committee Substitute to **HCR 47** is as follows:

HCR 47, A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Risk Management Technical Study Group to develop a standard set of issues that should be considered in the design and operation of any insurance-type program funded by the Commonwealth.

WHEREAS, programs in the Commonwealth that use government funds to provide insurance, or insurance-like protection to specified individuals, suffer significant problems in achieving that protection in a manner that delivers acceptable quality service at a reasonable cost to the state; and

WHEREAS, these programs share similar problems in establishing sophisticated insurance-type programs without the necessary expertise; and

WHEREAS, the various programs have not developed successful designs for insurance-type programs; and

WHEREAS, insurance-type programs share a consistent set of fairly technical issues and procedures in successful insurance-type-program design, and the study of these issues and procedures would benefit current and future insurance-type programs in the Commonwealth.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall establish a Risk Management Technical Study Group to develop a standard set of issues that should be considered in the design and operation of any insurance-type program funded by the Commonwealth. The study group shall meet beginning not later than October 1, 2000, and shall report back to the Legislative Research Commission with a standard set of guidelines and procedures no later than August 15, 2001.

Section 2. The study group should be composed of twelve technical analysts drawn from the Executive and Legislative Branches, state universities, directors of state insurance-type programs, and the Legislative Research Commission staff. The Legislative Research Commission shall appoint the members of the technical study group.

Section 3. The technical study group is charged to submit a report to the Legislative Research Commission that addresses, to the fullest extent possible, the following questions:

- (a) What are the advantages and disadvantages to the Commonwealth of various insurance payment arrangements, including fee-for-service, capitation, and combination arrangements? Are there new payment arrangements that should be considered?
- (b) What are the financial incentives for recipients and providers under each payment arrangement?
- (c) How does the establishment of the program as an entitlement for recipients change its dynamics?
- (d) What are the key implementation issues associated with each payment arrangement? What is a reasonable time for implementation and what are the minimum staff resources recommended?
- (e) What specific oversight mechanisms are needed in each payment arrangement to safeguard program quality and fiscal accountability? What data collection and analysis protocols are recommended?
- (f) What procedures have been adopted by existing state insurance-type programs that improved their operations and what procedures have proven inadequate? What should we learn from our successes and failures? and
- (g) Should a permanent risk management consulting team be formed in the Executive Branch to advise program managers on technical issues? If so, what should be the makeup of the team and its ongoing responsibilities?

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HJR 61, A JOINT RESOLUTION authorizing and directing the University of Kentucky, the Bluegrass Area Development District and the Lake Cumberland Area Development District to conduct a study relating to the feasibility of establishing a state park and the cost of constructing state lodges at Lake Herrington and at General Burnside Island State Park, and making an appropriation therefor.

WHEREAS, Lake Herrington, stretching across portions of Mercer, Garrard, and Boyle Counties, was created in the 1920's by damming up the Dix River. The lake is 3600 acres, 32 miles long and almost 400 feet deep; and

WHEREAS, General Burnside State Park is a 430-acre island surrounded by 50,250-acre Lake Cumberland, named for the sideburn-whiskered Civil War general Ambrose Burnside and has the unique distinction of being the only island park in the Kentucky State Park's system; and

WHEREAS, Lake Herrington and General Burnside Island are outstanding and untapped natural resources in the state of Kentucky; and

WHEREAS, the natural resources and beauty found in the Lake Herrington and General Burnside Island areas are unique treasures in the Commonwealth and should be shared and celebrated by all citizens of the state; and

WHEREAS, there is potential for tourism in the counties of Jessamine, Mercer, Garrard, and Boyle Counties in the Lake Herrington area because not only of the lake but also cultural, historical, recreational, and other events in Danville, Harrodsburg, and other nearby communities; and

WHEREAS, there is also potential for additional tourism in the General Burnside Island area of Lake Cumberland, Pulaski and Wayne Counties and the city of Burnside and surrounding communities; and

WHEREAS, the General Assembly needs information on the feasibility and cost of establishing Lake Herrington as a Kentucky State Park and constructing state park lodges at Lake Herrington and General Burnside Island State Park in order to objectively and responsibly determine whether to proceed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The University of Kentucky, jointly with the Bluegrass Area Development District and the Lake Cumberland Area Development District shall conduct a comprehensive study of:

- (1) The feasibility and cost of purchasing land and establishing a new state park at Lake Herrington;
- (2) The feasibility and cost of constructing a state park lodge at Lake Herrington; and
- (3) The feasibility and cost of constructing a state park lodge at General Burnside Island State Park.

Section 2. There is hereby appropriated from the general fund the sum of \$20,000 to accomplish the study. Any amount remaining following the completion of the study shall revert to the general fund. The study shall begin not later than August 1, 2000, and the report and recommendations shall be submitted to the Interim Joint Committee on Economic Development and Tourism not later than the interim committee's regularly scheduled meeting in September, 2001.

SCR 20, A CONCURRENT RESOLUTION designating the Louisville Pipe Band as the official Pipe Band of Kentucky.

WHEREAS, the Louisville Pipe Band is a musical and educational organization dedicated to furthering the Celtic arts of piping and drumming through public performances and band and solo competition and instruction, and the band is a non-profit corporation that relies on performance fees, private donations, and corporate sponsorships to facilitate teaching programs and travel to competitions; and

WHEREAS, the Louisville Pipe Band is a competitive Grade Four pipe band based in Jefferson County; this is the band's second year as a partner in the Louisville & Nashville Pipe Band Project; and, in 1999, the band established itself as a contender by placing second in a field of fifteen in their grade at the United States Open Pipe Band Championships at Alma, Michigan, and securing three first-place finishes in the Eastern United States Pipe Band Association competitions; and

WHEREAS, the Louisville Pipe Band actively participates as a member of the Eastern United States Pipe Band Association, Southern Branch, and the band retains world class piping and drumming instructors for workshops with participation open to all who share an appreciation of piping and drumming; and

WHEREAS, the Louisville Pipe Band actively supports many public events, including the Kentucky Derby Parade, Shakespeare in the Park, and the Commonwealth's two great Highland games: Kentucky Scottish Weekend and the Glasgow Highland Games; and

WHEREAS, the Louisville Pipe Band is proudly uniformed in ancient Henderson tartan kilts in honor of Colonel Richard Henderson, whose Transylvania Company established the first settlement in Kentucky, and employed Daniel Boone as a trailblazer; and

WHEREAS, the Louisville Pipe Band has been invited to represent the Commonwealth of Kentucky at the World Pipe Band Championships in Glasgow, Scotland, in August, 2000, and this unique opportunity to participate in this international event gives recognition to the talent, accomplishments, and dedication of the Louisville Pipe Band;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Louisville Pipe Band is hereby designated the official Pipe Band of Kentucky for the purpose of representing the Commonwealth of Kentucky in the ceremony of international significance at the World Pipe Band Championships in Glasgow, Scotland, in August, 2000.

Section 2. The General Assembly of the Commonwealth of Kentucky praises and highly commends the Louisville Pipe Band members for their excellent performances, and they are hereby designated as goodwill ambassadors for the Commonwealth

of Kentucky in their appearances at the World Pipe Band Championships.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the Louisville Pipe Band, c/o Dr. Robert Caudill, 17208 Mallet Hill Drive, Louisville, Kentucky 40245.

Calendar

HB 556 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

The Committee on Rules reported that **HB 507, HB 130, HB 453, HB 475, HB 595, HB 47, HB 410, and HB 556** have been posted for passage in the Orders of the Day for February 16, 2000.

The Committee on Rules reported that the following Bills have been recommitted: Appropriations and Revenue: **HB 25, HB 136, HB 220, HB 588**

Representative Barrows moved that the rules be suspended to grant floor privileges to a special guest and to introduce and act upon a Resolution. Agreed.

HR 102, by Representative Barrows: A RESOLUTION adjourning the House of Representatives in honor of Dave Baker.

Representative Barrows moved the adoption of the following **HR 102**:

HR 102, A RESOLUTION adjourning the House of Representatives in honor of Dave Baker.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Dave Baker is sports anchor for WKYT-TV and a member of the University of Kentucky Football and Basketball Network; and

WHEREAS, Dave Baker has contributed countless hours of his time, resources, and abilities to help educate Kentucky youth about the dangers of drinking under 21 years of age, and he has helped promote on behalf of the Kentucky Malt Beverage Education Corporation such outstanding programs as Project Graduation and Project Prom throughout Kentucky; and

WHEREAS, in his attempt to prevent and eliminate underage drinking, Dave Baker has been able to solicit the help and support of such famous Kentuckians as Cleveland Brown's Quarterback Tim Couch and world-renowned actress Ashley Judd; and

WHEREAS, Dave Baker's contributions to Kentucky's youth are beyond measure and will have lasting impact;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud to recognize Dave Baker for his outstanding contributions on behalf of the youth of this Commonwealth. We applaud him for his many accomplishments, and wish to him success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Dave Baker.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Joe Barrows for presentation to Dave Baker.

There being no objection **HR 102** was adopted.

Orders of the Day

HB 88, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Floor Amendment No. 1 to **HB 88**. Agreed.

Representative Stumbo moved that **HB 88**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 15, 2000 roll call on **HB 88** - Appendix.)

HB 88, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 88**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 9 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved that **HJR 9** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0.** (See February 15, 2000 roll call on **HJR 9** - Appendix.)

HJR 9 was adopted.

Representative Sims moved that the vote by which **HJR 9** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 456 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palmer moved that **HB 456** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 15, 2000 roll call on **HB 456** - Appendix.)

HB 456 was passed and the title agreed to.

Representative Palmer moved that the vote by which **HB 456** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 406, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 406**. Agreed.

Representative Heleringer moved that **HB 406**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 44, Nays 46.** (See February 15, 2000 roll call on **HB 406** - Appendix.)

The motion that **HB 406**, by way of Committee Substitute, be passed was defeated.

HB 448, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 448**. Agreed.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 448**. Agreed.

Representative Jenkins moved that **HB 448**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 15, 2000 roll call on **HB 448** - Appendix.)

HB 448, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 448**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 385, with Committee Substitute attached thereto, be taken from the Orders of the Day and read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 385**. Agreed.

Representative Thomas moved that **HB 385**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 15, 2000 roll call on **HB 385** - Appendix.)

HB 385, by way of Committee Substitute, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 385**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 429, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 429**. Agreed.

Representative Marzian moved that **HB 429**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See February 15, 2000 roll call on **HB 429** - Appendix.)

HB 429, by way of Committee Substitute, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 429**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 407, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Committee Amendment No. 1 to **HB 407**. Agreed.

Representative Gooch moved the adoption of Committee Amendment No. 2 to **HB 407**. Agreed.

Representative Gooch moved that **HB 407**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 15, 2000 roll call on **HB 407** - Appendix.)

HB 407, as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 407**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 482 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 482** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 15, 2000 roll call on **HB 482** - Appendix.)

HB 482 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 482** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 499, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of Floor Amendment No. 1 to **HB 499**. Agreed.

Representative J. Adams moved that **HB 499**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 15, 2000 roll call on **HB 499** - Appendix.)

HB 499, as amended, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 499**, as amended, was passed be reconsidered and said motion

be placed on the table. Agreed.

HB 503 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **HB 503** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 15, 2000 roll call on **HB 503** - Appendix.)

HB 503 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 503** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ausmus moved that **HJR 15** be adopted.

On the roll call the vote was: **Yeas 94, Nays 1.** (See February 15, 2000 roll call on **HJR 15** - Appendix.)

HJR 15 was adopted.

Representative Ausmus moved that the vote by which **HJR 15** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 35 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 35** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0.** (See February 15, 2000 roll call on **HCR 35** - Appendix.)

HCR 35 was adopted.

Representative Stumbo moved that the vote by which **HCR 35** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 36** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 15, 2000 roll call on **HCR 36** - Appendix.)

HCR 36 was adopted.

Representative Stumbo moved that the vote by which **HCR 36** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 37 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 37** be adopted.

On the roll call the vote was: **Yeas 88, Nays 0.** (See February 15, 2000 roll call on **HCR 37** - Appendix.)

HCR 37 was adopted.

Representative Stumbo moved that the vote by which **HCR 37** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 70, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HJR 70**. Agreed.

Representative Webb moved that **HJR 70**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 15, 2000 roll call on **HJR 70** - Appendix.)

HJR 70, by way of Committee Substitute, was adopted.

Representative Webb moved that the vote by which **HJR 70**, by way of Committee Substitute was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved that **HJR 72** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 15, 2000 roll call on **HJR 72** - Appendix.)

HJR 72 was adopted.

Representative Alexander moved that the vote by which **HJR 72** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 76 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HJR 76** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 15, 2000 roll call on **HJR 76** - Appendix.)

HJR 76 was adopted.

Representative Stumbo moved that the vote by which **HJR 76** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 62 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **HB 62** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 15, 2000 roll call on **HB 62** - Appendix.)

HB 62 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 62** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 252 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **HB 252** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 15, 2000 roll call on **HB 252** - Appendix.)

HB 252 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 252** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 275 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved

that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **HB 275** be passed.

On the roll call the vote was: **Yeas 96, Nays 1.** (See February 15, 2000 roll call on **HB 275** - Appendix.)

HB 275 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 275** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 287, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of Committee Amendment No. 1 to **HB 287**. Agreed.

Representative A. Arnold moved that **HB 287**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 3.** (See February 15, 2000 roll call on **HB 287** - Appendix.)

HB 287, as amended, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 287**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 314** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 15, 2000 roll call on **HB 314** - Appendix.)

HB 314 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 314** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 330, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Committee Amendment No. 1 to **HB 330**. Agreed.

Representative Wayne moved that **HB 330**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 1.** (See February 15, 2000 roll call on **HB 330** - Appendix.)

HB 330, as amended, was passed.

Representative Wayne moved the adoption of Committee Amendment No. 2 Title to **HB 330**. Agreed; and the title was agreed to.

Representative Wayne moved that the vote by which **HB 330**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 343, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 343**. Agreed.

Representative Wilkey moved that **HB 343**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 5.** (See February 15, 2000 roll call on **HB 343** - Appendix.)

HB 343, by way of Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 343**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 431 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 431** be passed.

On the roll call the vote was: **Yeas 92, Nays 2**. (See February 15, 2000 roll call on **HB 431** - Appendix.)

HB 431 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 431** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 365, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Floor Amendment No. 2 to **HB 365**. Agreed.

Representative Gray moved that **HB 365**, as amended, be passed.

On the roll call the vote was: **Yeas 63, Nays 26**. (See February 15, 2000 roll call on **HB 365** - Appendix.)

HB 365, as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 365**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Alexander moved that the vote by which **HB 406** was defeated be reconsidered.

Representative Treesh moved that the motion to reconsider the vote by which **HB 406** was defeated be laid on the table.

On the roll call the vote was: **Yeas 24, Nays 63**. (See February 15, 2000 roll call on the motion that **HB 406** be laid on the table - Appendix)

The motion that the motion to reconsider the vote by which **HB 406** was defeated be laid on the table was defeated.

On the roll call the vote was: **Yeas 55, Nays 40**. (See February 15, 2000 roll call on the motion that the vote by which **HB 406** was defeated be reconsidered - Appendix)

The motion that the vote by which **HB 406** was defeated be reconsidered was adopted.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement on **SB 123**, **HB 611**, and **HB 490** be waived. Agreed.

Representative Stumbo moved that **HB 392** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., February 16, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 702, by Representative Collins: AN ACT relating to traffic regulations.

HB 703, by Representative Collins: AN ACT relating to revenue and taxation.

HB 704, by Representative Haydon: AN ACT relating to property taxes.

HB 705, by Representative Treesh: AN ACT relating to revenue and taxation.

HB 706, by Representatives Burch, Marzian, L. Belcher, D. Butler, Johns, Palumbo, L. Clark, Miller, Siler, Lee, Graham, Bather, Jenkins, Bowling, D. D. Butler, Westrom, Cherry, Geveden, Anderson, Stein, Gray, Haydon, Bruce, Jordan, Colter, Callahan, Lindsay, Wilkey, Wayne, Branham, Coleman, and Buckingham: AN ACT relating to early childhood development.

HB 707, by Representative Anderson: AN ACT relating to sales tax.

HB 708, by Representative Anderson: AN ACT relating to local school district health insurance.

HB 709, by Representative C. Belcher: AN ACT relating to consumer protection.

HB 710, by Representative Anderson: AN ACT relating to property valuation administrators.

HB 711, by Representative Coleman: AN ACT relating to compulsive gambling.

HJR 101, by Representatives Crimm and Bratcher: A JOINT RESOLUTION directing the Kentucky Department of Education to promote strategies to assist school districts in providing a safe student transportation system.

HJR 103, by Representative Worthington: A RESOLUTION establishing the additional four (4) year highway construction plan outlined in the Recommended FY 2001 - FY 2006 Six Year Road Plan presented to the 2000 General Assembly.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 611, SB 123**

Motions, Petitions and Communications (Continued)

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "nay" on the Committee Substitute to **HB 73**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Branham moved that he be recorded as voting "nay" on **HB 406**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on the Committee Substitute to **HB 141**, Committee Substitute to **HB 206**, Committee Amendment No. 1 to **HB 346**, Floor Amendment No. 1 to **HB 417, HB 424, HB 454**, Committee Substitute to **HB 468**, Committee Substitute to **HB 491, HB 497, HCR 12, HJR 39, HCR 53, HJR 73, and HCR 81**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **HB 73, HB 141, HB 206, HB 346, HB 417, HB 424, HB 454, HB 468, HB 491, and HB 497**. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Alexander moved that he be recorded as voting "yea" on **HB 491**. Agreed.

Representative Adkins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Adkins moved that he be recorded as voting "yea" on **HB 491**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 491**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 397**, by Representative Webb:

On page 3, line 14, after the "(5)", delete lines 14 and 15 in their entirety; and

On page 3, line 14, after "(5)", add the following new language:

"Unpaid members of an auxiliary county police force established under KRS 70.542, appointed after the effective date of this Act, shall within one (1) year of their appointment or employment, successfully complete eighty (80) hours of basic training administered or approved by the Department of Criminal Justice Training. In addition, forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training shall be required."

Floor Amendment No. 1 to **HB 120**, by Representative Graham:

On page 1, line 11, by deleting the words "any tools or" and by removing the brackets and strike-through from the word "mechanized";

On page 4, line 6, by deleting the words ", but are not limited to,";

On page 4, lines 6 and 7, after the word "disasters,", by inserting the words "or civil unrest" and by deleting the words "and similar situations";

On page 4, line 17, by inserting the word "excavator's" after the word "The";

On page 4, by deleting line 18 in its entirety;

On page 4, line 19 by deleting the words "during the business day";

On page 4, line 27, by deleting the words "at the site";

On page 5, by replacing the words "a contractor" where they appear on line 2 and on lines 3 and 4, with the words "an excavator" in both places;

On page 5, line 3, by replacing the word "contractor's" with the word "excavator's";

On page 5, line 6, after "to" by inserting "excavation or demolition" and placing an opening bracket before and striking through "each" and by deleting "excavation or demolition" and by removing the opening bracket before "work";

On page 5, line 7, by inserting "employees" before "employee" and bracketing and striking through "employee";

On page 5, line 16, after the word "site", by deleting the colon and inserting a comma, followed by the word "he";

On page 5, line 17, by deleting the paragraph designation "(a)" and the words "The excavator", and, following the word "shall", by inserting the word "immediately" and replacing the semicolon at the end of the line with a period;

On page 5, by deleting lines 18 through 21 in their entirety;

On page 6, lines 4 through 9, by replacing subsection (8) completely and substituting therefor: "~~(8)(6)~~ Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage~~[or which causes concern for public or workplace safety]~~ shall~~[, immediately upon discovery of same,]~~ cease excavation or~~(and)~~ demolition activities and notify all affected operators of the location and nature of the~~[safety concern or]~~ underground facility damage. **If the underground facility damage causes concern for public or workplace safety, the excavator shall notify appropriate public safety agencies of the location and nature of the safety concern.**";

On page 7, line 15 by placing a closing bracket after "(2)" and removing the strikethroughs on that line and on line 16;

On page 7, line 17, at the beginning of the line by inserting "(2)" and by placing an opening bracket before "(3)";

On page 7, line 19, by deleting "(2)" and inserting in lieu thereof "(3)";

On page 7, line 20, by deleting "(3)" and inserting in lieu thereof "(4)";

On page 7, line 20, by placing the word "Excavators" before the word "Persons", and by bracketing and striking through the words "Persons, other than those in the excavation business for hire,";

On page 7, line 21 by placing the word "private" at the beginning of the line, by bracketing and striking through the word "residential", and, following the comma after the word "property", by inserting the words "using nonmechanized equipment,";

On page 7, line 23, by deleting "(4)" and inserting in lieu thereof "(5)";

On page 7, line 24, by deleting "(5)" and inserting in lieu thereof "(6)";

On page 7, line 25, by deleting "(6)" and inserting in lieu thereof "(7)";

On page 7, after line 26, by inserting a new subsection to Section 5 as follows "**(8) A utility operator or utility operator subcontractor performing work to provide or repair utility customer service.**";

On page 8, lines 1 through 6, by deleting subsection (1) in its entirety and substituting in lieu thereof the following: "(1)

An excavator who fails to comply with any provision of Section 3 of this Act, or an operator who fails to comply with any provision of Section 2 of this Act, shall be guilty of endangering underground facilities and may be subject to a fine of no more than two hundred and fifty dollars (\$250) for the first offense, no more than one thousand dollars (\$1000) for the second offense within one (1) year, and no more than three thousand dollars (\$3,000) for the third and any subsequent offense."

Floor Amendment No. 1 to **HB 209**, by Representative Callahan:

On page 13, after line 12, by inserting the following:

"Section 3. KRS 154.29-050 is amended to read as follows:

- (1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:
 - (a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;
 - (b) A date certain by which the approved company shall have completed the tourism attraction project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and
 - (c) The following provisions:
 1. The term shall be ten (10) years *which shall commence no later than three (3) years from the date of the final approval of the project. Upon request from the approved company, the authority shall grant an extension or change pursuant to this section to the completion date as specified in the agreement of an approved company which has received final approval prior to July 15, 2000*~~(from the later of:~~
 - a. ~~The date of the final approval of the project; or~~
 - b. ~~The completion date specified in the agreement, if this completion date is within two (2) years of the date of the final approval of the project];~~
 2. Within forty-five (45) days after the end of each half of each fiscal year of the approved company, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 154.29-010 to 154.29-060. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section; and
 3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:
 - a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or
 - b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.
- (2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.
- (3) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010, excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 154.29-010.

Floor Amendment No. 2 to **HB 397**, by Representative Wayne:

On pages 1 and 2, delete Section 1 in its entirety; and

On page 2, line 19, renumber "Section 2" as "Section 1"; and

On page 3, line 14, after "(5)", add the following new language:

"Any auxiliary police officer, established under KRS 70.542, paid or unpaid, shall meet the minimum certification qualifications established in KRS 15.382. The local government shall incur all expenses for meeting the certification requirements in KRS 15.382."

Floor Amendment No. 1 to the Committee Substitute to **HB 244**, by Representative Callahan:

On page 1, line 21 after the word "section" by deleting the ", and" and by inserting in lieu thereof ". Any unused fund balance at the close of the biennium"; and

On page 1, line 23 after the words "executive branch" by inserting "for the purposes specified in this section and shall be".

Floor Amendment No. 3 to **HB 397**, by Representative Anderson:

On page 3, lines 14 and 15, by deleting same and inserting in lieu thereof the following:

"(5) A member of an auxiliary county police force established under KRS 70.542 who fails to meet the requirements of this section shall not at any subsequent time, either as a member of the auxiliary county police force or in any other position, exercise peace officer powers in the Commonwealth until the requirements of this section are met."

Floor Amendment No. 1 to **HB 371**, by Representative Gooch:

On page 1, line 25, by deleting "health care provider" and inserting in lieu thereof "physician".

Floor Amendment No. 2 to **HB 371**, by Representative Gooch:

On page 2, after line 15, by adding:

"Section 2. KRS 304.17A-270 is amended to read as follows:

- (1) A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health insurer, including the Kentucky state Medicaid program ~~{and Medicaid partnerships}~~.
- (2) A provider shall not discriminate against any health insurer or any of that health insurer's members, subscribers, or covered persons if the health insurer is willing to meet the terms and conditions for participation under which that provider participates in any other health insurer's health benefit plan. This subsection shall apply to private health insurance plans, the Kentucky state Medicaid program, Kentucky Children's Health Insurance Program established in KRS 205.6483, and any health insurance program administered by the Personnel Cabinet for the benefit of employees of the Commonwealth of Kentucky, school districts, and independent school boards.

Section 3. KRS 304.17A-110 is amended to read as follows:

All health benefit plans issued or renewed on or after July 15, 1995, shall comply with the following provisions:

- (1) All health benefit plans shall be renewable with respect to all eligible persons and dependents at the option of the policyholder or contract holder, except:
 - (a) For nonpayment of the required premiums by the policyholder or contract holder;
 - (b) For fraud or misrepresentation of the policyholder or contract holder;
 - (c) For intentional and abusive noncompliance with health benefit plan provisions;
 - (d) If the insurer ceases doing business in Kentucky and notice of the decision to cease to do business in Kentucky is provided to the department, and to either the policyholder or contract holder. Health benefit plans shall not be canceled by the insurer for one (1) year after the date of the notice required under this paragraph unless the business has been sold to another insurer. An insurer that ceases to do business in Kentucky shall not reenter Kentucky for a period of five (5) years from the date of the notice required under this paragraph.
- (2)
 - (a) Pre-existing conditions provisions shall not exclude or limit coverage for a period beyond six (6) months, or twelve (12) months for health benefit plans issued after July 15, 1996, following the individual's effective date of coverage and may only relate to conditions which had, during the six (6) months, or twelve (12) months for health benefit plans issued after July 15, 1996, immediately preceding the effective date of coverage, manifested themselves in a manner that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received or as to a pregnancy existing on the effective date of coverage;
 - (b) In determining whether a pre-existing conditions provision applies to a person covered under a plan, all health benefit plans shall credit the time the person was covered under a previous health benefit plan provided by an insurer, including Medicaid and Medicare, if the previous coverage was continuous to a date not more than sixty (60) days prior to the effective date of the new coverage.
- (3) (a) Health care benefit plans shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and is willing to meet the terms and conditions for participation established by the

health benefit plan.

(b) A provider shall not discriminate against any health insurer or any of that health insurer's members, subscribers, or covered persons if the health insurer is willing to meet the terms and conditions for participation under which that provider participates in any other health insurer's health benefit plan.

- (4) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through the Kentucky Health Purchasing Alliance, any other health purchasing alliance, an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity."

Floor Amendment No. 2 to **HB 384**, by Representative Buckingham:

On page 1, line 3, by deleting "4" and inserting in lieu thereof "5"; and

On page 1, line 11, by deleting ", by whatever"; and

On page 1, line 12, by deleting "means or medium,"; and

On page 1, line 14, after "card" by inserting ". Distribution of credit card applications from untended display racks or as inserts in magazines, purchases, or other unrelated items is not solicitation"; and

On page 2, after line 22, by adding:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Nothing in Section 2 of this Act shall prohibit solicitations made under a contract between a credit card issuer and an institution, alumni association, or affiliated corporation that was entered into prior to the effective date of Sections 1 to 5 of this Act. Provisions of contracts or contract renewals entered into on and after the effective date of Sections 1 to 5 of this Act shall comply with Section 2 of this Act.

Floor Amendment No. 2 to the Committee Substitute to **HB 334**, by Representative Lindsay:

On page 8, after line 19 by adding the following:

"Section 4. KRS 100.211 is amended to read as follows:

- (1) A proposal for a zoning map amendment may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with an owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by this chapter and make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the various legislative bodies or fiscal courts involved. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation ~~for approval or disapproval~~. It shall take a majority of the entire legislative body or fiscal court to **approve the planning commission's recommendation**, ~~to override the recommendation of the planning commission~~ and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment ~~[whenever the planning commission forwards the application to the fiscal court or legislative body without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the planning commission, the ordinance of the fiscal court or legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law].~~
- (2) A proposal to amend the text of any zoning regulation which must be voted upon by the legislative body or fiscal court may originate with the planning commission of the unit or with any fiscal court or legislative body which is a member of the unit. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall hold at least one (1) public hearing after notice as required by KRS Chapter 424 and make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment. It shall take an affirmative vote of a majority of the fiscal court or legislative body to adopt the proposed amendment.
- (3) Procedures prescribed in KRS 100.207 applicable to the publication of notice also shall apply to any proposed amendment to a zoning regulation text or map; provided that:

- (a) Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of the property which intersect the street on which the property is located; and
- (b) When the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.
- (4) When a property owner proposes to amend the zoning map of any planning unit other than a planning unit containing a city of the first class, the provisions of KRS 100.212 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.
- (5) When a property owner proposes to amend the zoning map of any planning unit comprising any portion of a county containing a city of the first class, the provisions of KRS 100.214 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.
- (6) In addition to the public notice requirements prescribed in subsection (3) of this section, when the planning commission, fiscal court, or legislative body of any planning unit originates a proposal to amend the zoning map of that unit, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing by first class mail to an owner of every parcel of property the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.
- (7) The fiscal court or legislative body shall take final action upon a proposed zoning map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such proposal.

Section 5. The following KRS section is repealed:

100.2111 Alternative regulation for zoning map amendment."

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 23: Representative P. Clark
HB 59: Representative Colter
HB 213: Representative J. Turner
HB 367: Representative Nunn, Principle Co-Sponsor
HB 439: Representative Colter
HB 543: Representative Palmer
HB 554: Representative Riggs
HB 584: Representative Callahan
HB 588: Representatives J. Arnold, Collins
HB 606: Representatives D. Butler, Marzian, Wilkey
HB 636: Representative Stumbo
HB 640: Representatives Colter, Rader
HB 690: Representative Crimm
HB 706: Representative Crenshaw

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 123: Representative Haydon

Announcements

The following meetings were announced:

State Government, Room 149, 12:00, February 16, 2000

Labor and Industry, 8:00 a.m., Room 125, February 16, 2000

Majority Caucus, upon adjournment, February 16, 2000

Transportation, 10:00 a.m., February 16, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 16, 2000.

The motion that the House adjourn until 2:00 p.m., February 16, 2000, was adopted by voice vote.

FEBRUARY 16, 2000
TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Doctor John Charles, Pastor of the Alton Baptist Church, Lawrenceburg.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Polston.

Senate Message

Announcing passage of **SB 11, SB 19, SB 121, SJR 57, HB 56, HB 90, HB 109, HB 137, and HB 205.** (Time: 2:10)

Message received in regard to **HB 16**: The Senate has passed **HB 16** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 40**: The Senate has passed **HB 40** with the following Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 78**: The Senate has passed **HB 78** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 15, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Hoover moved that the rules be suspended to grant floor privileges to special guests and to act upon a Legislative Citation. Agreed.

Representative Hoover moved the adoption of the following **Legislative Citation No. 60.**

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to the members of the Somerset High School Lady Jumpers Basketball Team for outstanding athletic performance that resulted in this talented group of athletes capturing the Girls Kentucky All "A" Classic State Championship for the first time in school history. The dedicated members of this most remarkable team have demonstrated phenomenal athletic ability and have brought great recognition to this school and community by their efforts in this worthy endeavor. The entire membership is pleased to join with Representative Jeffrey Hoover in extending sincerest congratulations to the members and coaching staff of the Somerset High School Lady Jumpers Basketball Team for this notable achievement; in welcoming them as they witness a day in the 2000 Kentucky General Assembly; and in expressing the hope for continued success in the future. Done in Frankfort, this sixteenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 60 was adopted without objection.

Representative Ballard moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Ballard moved the adoption of the following **Legislative Citation No. 61.**

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest welcome to this beautiful state and declares that Jim and Gerri Geekie be designated Illinois Goodwill Ambassadors during their excursion into Kentucky. For it can be said that Kentucky and Illinois share mutual state borders, the confluence of the Ohio and Mississippi Rivers; and that Representative Eddie Ballard and Rachel Ballard and Jim and Gerri Geekie represent an unofficial delegation that has formed a special bond of lifetime, as have the two states, promoting harmony and cooperation. Let it be known this sixteenth day of February that the Kentucky House of Representatives recognizes the unique friendship that exists between Illinois and Kentucky as well as between Representative Eddie Ballard and his wife, Rachel, and their extraordinary "Illini" friends, and does adjourn this day in their honor. Done in Frankfort, this sixteenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 61 was adopted without objection.

Introduction of Bills and Resolutions

HB 712, by Representatives Buckingham and Geveden: AN ACT relating to the legislative ethics code.

HB 713, by Representative Ballard: AN ACT relating to state government employment.

HB 714, by Representatives Webb and Geveden: AN ACT relating to child support recovery.

HB 715, by Representatives Bather, Stumbo, L. Clark, Burch, Marzian, Horlander, P. Clark, Jordan, and Johns: AN ACT relating to the regulation of motor carriers.

HB 716, by Representatives Thompson, L. Belcher, Miller, and Draud: AN ACT relating to juvenile service.

HB 717, by Representative Anderson: AN ACT relating to school-based decision making councils.

HB 718, by Representatives Treesh and Crall: AN ACT relating to workers' compensation and declaring an emergency.

HR 104, by Representatives Bather, Crenshaw, Simpson, Marzian, and Jordan: A RESOLUTION recognizing the month of February as Black History Month.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 696**

Appropriations and Revenue: **HB 695, HB 703, HB 704, HB 705, HB 707**

Banking and Insurance: **HB 697, HB 709**

Education: **HB 699, HB 708, HJR 101**

Health and Welfare: **HB 706**

Licensing and Occupations: **HB 701**

State Government: **HB 698, HB 700, HB 710, HB 711**

Transportation: **HB 702, HJR 103**

Report of Committees

The Committee on Labor and Industry reported **HB 606** and **HR 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 606, AN ACT relating to the construction industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

- (1) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction.*
- (2) "Department" means the Department of Housing, Buildings and Construction in the Public Protection and Regulation Cabinet.*
- (3) "Board" means the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department of Housing, Buildings and Construction.*
- (4) "Certificate" means a certificate to engage in business in the Commonwealth as a contractor.*
- (5) "Cease and desist order" means an order issued by the commissioner requiring a contractor to stop work until the contractor complies with the certification requirements set forth under Section 2 of this Act.*
- (6) "Contractor" means a person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, structure, excavation, or any other work associated with a project, development, or improvement, or to do any part of a project, development,*

or improvement including the erection of scaffolding or other structures.

- (7) "Independent contractor" means a person who, in exercising self-employment, contracts to do certain work according to his or her own methods, and is subject to the control of the employing party only in regard to the final product or result of the work.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner shall develop and administer a program to certify contractors engaged in the construction industry and promulgate administrative regulations in accordance with KRS Chapter 13A to implement the program. The commissioner may employ assistants and procure records, supplies, and equipment necessary to carry out the provisions of Sections 1 to 7 of this Act. A reasonable fee, not to exceed one hundred dollars (\$100), approved by the board, may be collected from applicants for certification to recover the costs of this service and shall be placed in a nonlapsing trust and agency account established exclusively for this purpose. The commissioner shall consider the costs of administration by any existing builder or contractor certification or registration program in subsection (3) of Section 3 of this Act and reduce the fee in an amount reasonably equal to the reduction in the administrative costs of the commissioner that is being borne by the existing program. The commissioner shall not collect an additional fee for any contractor currently licensed under KRS 198B.560, 198B.656, 227.4901, or 318.030. The commissioner may prorate the fee collected under KRS 198B.555, 198B.676, 227.4901, and 318.050 to cover the costs of administration and enforcement of Sections 1 to 7 of this Act.
- (2) Certification under Sections 1 to 7 of this Act is required of any person who performs construction work as a contractor as defined in Section 1 of this Act. For the purpose of this section, "person" means the individual or entity legally bound under contract to perform the work. If the contracting party employs subcontractors to perform all or part of the work, the subcontractors also shall be considered, for purposes of this section, as persons legally bound to do the work in question and required to be certified under Sections 1 to 7 of this Act. The certification program shall be designed to accommodate either individual or business applicants.
- (3) Sections 1 to 7 of this Act do not apply to:
- (a) Employees of the Commonwealth and its political subdivisions or employees of the federal government, when engaged in construction work as a part of their professional duties;
 - (b) Any person doing new construction or remodeling himself or herself on his or her legal residence, or construction or improvements on his or her other real property if the construction or improvements are actually made by the owner without the intention of sale or lease within one (1) year after completion; or
 - (c) Any retailer, as defined in KRS 139.110, or the retailer's employee installing or applying consumer products purchased at retail from the retailer by the final user.
- (4) Failure to comply with or implement any final ruling or order, after all appeals have been exhausted, issued under KRS Chapters 337 and 338 shall result in denial of certification unless and until the final ruling or order is implemented or complied with.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) The administrative regulations promulgated by the commissioner under Section 2 of this Act shall include, but not be limited to:
- (a) A description of the application process that includes a listing of proofs sufficient to verify current compliance with KRS Chapters 341 and 342 and all applicable state laws pertaining to tax obligations either individual or corporate; a current certificate of general liability insurance issued by an insurance carrier licensed and approved by the Kentucky Department of Insurance that covers property damage and personal injury caused by the contractor during the fulfillment of a contract of at least two hundred and fifty thousand dollars (\$250,000); and the process by which an applicant may satisfactorily resolve any outstanding violation of the provisions of KRS Chapters 337 and 338, either reported by the applicant or known to the examining official;
 - (b) A description of the application process for those self-employed persons who hold themselves out as "independent contractors" as defined in Section 1 of this Act, noting any appropriate exemptions to the requirements in paragraph (a) of this subsection, as well as any proofs unique to this class;
 - (c) A description of the conditions under which the certification of a contractor may be denied, suspended, or revoked and the steps necessary for reinstatement;
 - (d) A schedule of fees for initial application, renewal, and reinstatement of certification; and
 - (e) The manner in which complaints against contractors will be handled by the commissioner.
- (2) Any proofs meeting the requirements of subsection (1) of this section that have been provided to the department as required in KRS 198B.595(1), 198B.668(1), and 227.480(2) shall be sufficient in complying with this section.
- (3) The commissioner shall recognize any existing builder or contractor certification or registration programs in place as of July 15, 1999, as equivalent in meeting the requirements of Sections 1 to 7 of this Act and shall allow the administration of these programs by the sponsoring groups, who shall, on an annual basis, provide the department

with a listing of all persons currently certified or registered, their addresses, and proofs sufficient to verify compliance with the requirements of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) To ensure compliance, and upon petition by the commissioner, the Governor and the secretary of the Governor's Executive Cabinet shall direct any other state agency or instrumentality of state government to cooperate fully in the development of an effective certification program, which shall include, but not be limited to, interagency meetings for the purpose of coordinating enforcement activities and avoiding duplication. The commissioner is directed to include in these collaborative efforts the following state agencies: the Labor Cabinet; the Revenue Cabinet; the Transportation Cabinet; the Division of Unemployment Insurance within the Department for Employment Services, the Cabinet for Workforce Development; the Department for Facilities Management, Finance and Administration Cabinet; and the Consumer Protection Division in the Office of the Attorney General.
- (2) The commissioner shall plan and implement a computerized database for enforcement purposes, designed primarily to identify repeat and chronic offenders.
- (3) The Kentucky Revenue Cabinet and the commissioner shall enter into exchange of information agreements to identify the need to deny any initial application for certification or the need to revoke, suspend, or deny renewal or reinstatement of any contractor's certification due to unresolved state tax delinquencies.
- (4) To achieve uniformity in administration and enforcement of KRS Chapters 337, 338, 341, and 342 and Sections 1 to 7 of this Act, when the nature of an "independent contractor" is at issue in administrative and enforcement proceedings, the definition set forth in Section 1 of this Act shall be utilized.
- (5) The Department of Highways within the Transportation Cabinet and the commissioner shall enter into an agreement to authorize the Department of Highways to obtain the proofs sufficient to verify compliance with subsection (1) of Section 3 of this Act from contractors desiring to become prequalified on an annual basis and submit this information and the required certification fees to the commissioner.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) Funds for the initial administration of Sections 1 to 7 of this Act during fiscal year 2000-2001, to the extent fee income is insufficient to meet actual cost as determined by the chief budget officer for the department, shall be borrowed from surplus trust and agency accounts of the department and repaid without interest over no more than the succeeding two (2) fiscal years.
- (2) (a) All contractors certified by the department under KRS 224.60-135 or 227.4901, and all contractors required to be licensed under KRS 198B.560, 198B.656, 236.210, or 318.030 shall comply with Sections 1 to 7 of this Act effective January 1, 2001.
(b) All contractors not certified as set forth in subsection (2)(a) of this section shall comply with Sections 1 to 7 of this Act effective January 1, 2002.
(c) Certifications, or certifications for renewal, issued under Sections 1 to 7 of this Act shall be valid for one (1) year from the date of issuance.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) Any person who uses false evidence or misrepresentation in an application for certification under Sections 1 to 7 of this Act, or who refuses to be certified when required by law to do so, shall be assessed an administrative fine in the sum of five hundred dollars (\$500) by the commissioner. The falsified application shall be considered void in its entirety and the applicant shall be required to furnish new proofs and may reapply after a waiting period of thirty (30) days from the date the fine is paid.
- (2) If the commissioner finds that a person continues to work after the issuance of a cease and desist order, the commissioner may seek a permanent injunction to halt any work in progress and any other construction activity until the contractor has complied with Sections 1 to 7 of this Act.
- (3) An administrative fine of fifteen hundred dollars (\$1,500) may be assessed against any person by the commissioner and shall be paid prior to the issuance of the certificate following a refusal of a cease and desist order. Each day that construction continues after the issuance of a cease and desist order shall constitute a separate administrative fine.
- (4) Any administrative fines collected under Sections 1 to 7 of this Act shall be deposited in the department's trust and agency account for administration of the contractor certification program.
- (5) Any person subject to Sections 1 to 7 of this Act who refuses to properly complete his or her certification, who fails to renew his or her certification in a timely manner for five (5) successive years while still engaged in the construction industry, or who has been cited and fined under subsection (1) of this section on at least ten (10) separate occasions, shall be deemed a persistent offender and, following an administrative hearing and any appeals, be prohibited from engaging in construction work for his or her livelihood for a period of five (5) consecutive years from the date of the final action.
- (6) In addition to the civil penalties provided under subsections (1) to (5) of this section, failure to comply with any final

order issued under Sections 1 to 7 of this Act or the violation of any provisions set forth under Sections 1 to 7 of this Act or any administrative regulation issued under Sections 1 to 7 of this Act shall constitute a Class A Misdemeanor.

- (7) Upon the appeal of a person whose certification has been denied, suspended, revoked or who has been assessed a fine under Sections 1 to 7 of this Act, the commissioner shall conduct an administrative hearing in accordance with KRS Chapter 13B.
- (8) The commissioner or the commissioner's agents shall issue cease and desist orders to any person or company found to be engaged in construction work as a contractor without being in possession of a valid and current certificate issued by the commissioner.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Contractor Certification Act.

Section 8. KRS 198B.060 is amended to read as follows:

- (1) Each local government shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for inspection and code enforcement services in accordance with subsections (8) and (11) of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction, except that permits, inspections, and certificates of occupancy shall not be mandatory for single-family residences unless a local government passes an ordinance requiring inspections of single-family residences.
- (2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional, or high hazard occupancy; or assembly, business, or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates, and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of the permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.
- (3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. The determination may be reviewed and altered by the board.
- (4) With the exception of single-family dwellings, the department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates, and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program, except that the commissioner shall not preempt or assert jurisdiction for the enforcement of the code on single-family dwellings. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.
- (5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. The petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal the denial directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. If the local government is granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over the additional responsibility, but the local government shall collect any fees for functions it performs pursuant to the additional responsibility.
- (6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.
- (7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating

review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

- (8) No building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for the construction. Nothing in this subsection shall require a single-family dwelling to be permitted or inspected unless a local government has established a building inspection program as set out in this section.
- (9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of the building. The applicant for a building permit, by the act of applying for the permit, shall be deemed to have consented to inspection by the local government or the department, of the building during construction and upon the completion of construction for the purpose of determining that the building is constructed in compliance with the Uniform State Building Code.
- (10) ~~(a) Any person making application to the building inspector or other authority of any local government unit or other political subdivision in this state authorized to issue permits for the construction, reconstruction, revocation, demolition, or repair of any building, highway, sewer, structure, or any other construction work shall furnish proof to the building inspector or other authority that all contractors, independent contractors, and subcontractors that will be performing the work are certified in accordance with Sections 1 to 7 of this Act. If the person performing the proposed work is exempt from certification under Sections 1 to 7 of this Act, the person shall file a written affidavit on the form prescribed by the commissioner stating the exemption being utilized. The building inspector or other authority shall not issue a building or construction permit to any person not possessing a valid contractor certificate required by Sections 1 to 7 of this Act.~~ ~~No permit for building, construction, reconstruction, renovation, demolition, or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition, or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.~~
 - ~~(b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed four thousand dollars (\$4,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.~~
 - ~~(c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.~~
- (11) A certified electrical inspector shall be employed by, or contracted for, or contracted with a local government having responsibility over buildings as set out in this section as part of its building inspection program. After a certified electrical inspector has been provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building, or any building which has been moved, until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.
- (12) This section shall apply to industrialized building systems, but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the Board of Housing, Buildings and Construction, shall not be performed in order to conduct the tests or inspections.
- (13) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions. Nothing in this subsection shall be construed to require a certificate of occupancy to be issued for any single-family dwelling unless a local government has established jurisdiction for the enforcement of the Uniform State Building Code under this section.
- (14) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.
- (15) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section if:
 - (a) The person performing the plans and specifications inspection is certified by the department as having successfully

- completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;
- (b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;
 - (c) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;
 - (d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and
 - (e) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.
- (16) If the department has reason to believe that an inspector is not enforcing, or is improperly enforcing, the provisions of the Kentucky building codes, it shall conduct an informal hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector, or may take action to suspend or revoke the inspector's certificate.
- (17) If, after written notification from the department to the inspector of any corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies. Any action to suspend or revoke an inspector's certificate may be appealed to the board, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (18) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

HR 75, A RESOLUTION urging Congress and the Executive Branch of the United States to work together to reform the financial structure of the Coal Industry Retiree Health Benefit Act.

WHEREAS, Kentucky is a coal producing and coal consuming state that has benefited tremendously from the hard, dangerous work of retired coal miners; and

WHEREAS, the United States government entered into a contract with the coal miners in 1946 that created the United Mine Workers of America Health and Retirement Funds; and

WHEREAS, this contract was signed in the White House in a ceremony with President Harry Truman; and

WHEREAS, a federal commission established by the United State's Secretary of Labor, Elizabeth Dole, concluded in 1990: "Retired coal miners have legitimate expectations of health care benefits for life; that was the promise they received during their working lives and that is how they planned their retirement years. That commitment should be honored."; and

WHEREAS, this promise became law in 1992 when Congress passed, and President George Bush signed, the Coal Industry Retiree Health Benefit Act, commonly referred to as the Coal Act; and

WHEREAS, the Coal Act reiterated the promise of lifetime health benefits for retired coal miners and their dependents; and

WHEREAS, Congress intended the Coal Act to: remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multi-employer benefit plans that provide health care benefits to retirees in the coal industry; allow for sufficient operating assets for those plans; and provide for continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of those plans; and

WHEREAS, certain court decisions have eroded the financial structure that Congress put in place under the Coal Act; and

WHEREAS, those court decisions have jeopardized continuation of health benefits to retired coal miners;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly of the Commonwealth of Kentucky urges Congress and the Executive Branch of the United States to work together to reform the financial structure of the Coal Act to ensure that retired coal miners continue to receive the health care benefits they were promised and so rightly deserve.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the President of the United States and to each member of the Congressional delegation representing the people of the Commonwealth of Kentucky.

The Committee on Education reported **HB 322**, with Committee Substitute attached thereto, **HB 324**, with Committee Substitute attached thereto, **HB 462**, with Committee Substitute attached thereto, **HCR 8**, **HCR 11**, and **HCR 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 322, AN ACT relating to safety and security at postsecondary education institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2, 3, and 4 of this Act, unless the context requires otherwise:

- (1) "Campus" means all property owned or controlled by an institution of postsecondary education including, but not limited to, academic buildings; student housing and recreational facilities; residential facilities operated by any officially recognized student organization; all public property such as streets, sidewalks, and parking facilities immediately contiguous to campus buildings; remote facilities leased for use as classroom space or student living; and areas for which any campus police department has been given jurisdiction under KRS 164.950 to 164.980.
- (2) "Campus security authority" means any official at a postsecondary education institution who has significant responsibility for student and campus activities, including student housing officials, student judicial affairs personnel, student life administrators, and campus police and security officers. Professional mental health, pastoral, and other licensed counselors when functioning in that capacity are not considered campus security authorities.
- (3) "Crime" means murder, forcible or nonforcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, arson, physical damage to facilities, arrests of persons referred for campus disciplinary action for liquor law violations, drug-related violations, weapons possession, and acts involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local law enforcement agencies.
- (4) "Postsecondary education institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, and any private college or university that is licensed by the Council on Postsecondary Education under KRS 164.945 to 164.947.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Each postsecondary education institution shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes occurring on campus and reported to campus security authorities and local law enforcement agencies, including:
 - (a) The category of crime, the perpetrator of the crime if known, a description of the incident, date, time, and general location of each crime; and
 - (b) The disposition of the complaint if known, including referral for prosecution, institutional disciplinary proceedings, or investigation by another state agency. The disposition shall include a reference to an investigation report number.
- (2) All entries in the campus crime log shall be made available for public inspection within twenty-four (24) hours after the first report of an incident was made to any campus security authority or local law enforcement officials.
 - (a) If there is clear and convincing evidence that the release of the information would jeopardize an ongoing criminal investigation or the safety of an individual, would cause a suspect to flee or evade detection, would result in the destruction of evidence, or is prohibited from release by law, the information may be withheld until that damage is no longer likely to occur from the release of the information. Only the information that is absolutely necessary to withhold for the reasons stated in this paragraph may be withheld; all other information shall be released.
 - (b) In the event information is withheld under the provisions of paragraph (a) of this subsection, the commission of the crime shall still be reported and made available for public inspection.
- (3) The campus crime log required by this section shall be open for public inspection at all times and shall be made available on campus computer networks to which students, employees, and other campus community members have access. Each semester the institution shall notify currently enrolled students, students applying to the institution, and employees of the availability of the campus crime log, where it can be accessed, and the exact electronic address on the computer network.
- (4) Each postsecondary education institution shall make timely reports to the campus community on all crimes reported to campus security authorities and local law enforcement authorities. The reports shall be provided to students and employees within twenty-four (24) hours after an incident is first reported and in a manner that will aid in the prevention of similar occurrences. Institutions shall use computer networks and post the reports in each residential facility. The institution may also use flyers and other campus publications including newspapers, and other media. Each institution shall adopt a policy to comply with this requirement and the policy shall be included in the postsecondary education institution's annual campus safety and security report published in compliance with Section 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Under the provisions of KRS Chapter 227, the state fire marshal shall have jurisdiction over all property in the state including property of public postsecondary education institutions and property of any private college or university that is licensed by the Council on Postsecondary Education as provided for by KRS 164.945 to 164.947, insofar as it is necessary for the administration and enforcement of any duty imposed on the office by law or administrative regulation and all laws, ordinances, regulations, and orders designed to protect the public from fire loss.
- (2) The state fire marshal or the fire marshal's employee or appointee may, without delay or advance notice and at all reasonable hours of the day or night, enter in, or upon any property defined under KRS 227.200 located on the campus to make an inspection, investigation, or any other action necessary for the purpose of preventing fire loss or determining the origin of any fire.
- (3) No person shall obstruct, hinder, or delay such an officer in the performance of his or her duty.
- (4) Upon learning of a fire or threat of fire, campus security authorities shall immediately report each fire or threat of fire to the state fire marshal's office in Frankfort and the local deputies, assistants, and employees appointed under KRS 227.230.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Effective September 1, 2000, and each year thereafter, each postsecondary education institution shall submit to the Council on Postsecondary Education a statement of current policies concerning campus safety and security including, but not limited to:

- (1) The enforcement authority of security personnel, including their working relationship with state and local police agencies;
- (2) A description of programs designed to inform students and employees about the campus safety and security procedures and practices, how to report crimes, and how to prevent crimes; and
- (3) Statistics concerning the occurrence of crimes on campus during the most recent academic year. The statistical data shall be reported by the number of occurrences:
 - (a) On campus;
 - (b) In dormitories or other residential facilities;
 - (c) In or on noncampus buildings or property; and
 - (d) On adjacent public property.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any person violating the provisions of Sections 2 and 3 of this Act, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not less than five hundred dollars (\$500), nor more than one thousand five hundred dollars (\$1,500), or imprisoned in the county jail for up to thirty (30) days, or both. Any person may be civilly liable for any consequent damages resulting from violations of these sections. Notwithstanding the provisions of KRS 44.072 to KRS 44.073, sovereign immunity for the postsecondary institution or its agents is waived to the extent of the liability.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 6 of this Act may be cited as the Michael Minger Act.

The Committee Substitute No. 1 to **HB 322** is as follows:

HB 322, AN ACT relating to safety and security at postsecondary education institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2, 3, and 4 of this Act, unless the context requires otherwise:

- (1) "Campus" means all property owned, managed, or controlled by an institution of postsecondary education including, but not limited to, academic buildings; student housing and recreational facilities; residential facilities operated by any officially recognized student organization; all sections of public property such as streets, sidewalks, and parking facilities immediately contiguous to campus buildings; and remote facilities leased for use as classroom space or student living.
- (2) "Campus security authority" means campus police, security officers, and any official at a postsecondary education institution who has significant responsibility for student and campus activities, including student discipline, student housing, student judicial affairs, and student life administration. Professional mental health, pastoral, and other licensed counselors when functioning in that capacity are not considered campus security authorities.
- (3) "Crime" means murder, manslaughter, reckless homicide, assault, menacing, wanton endangerment, terroristic threatening, stalking, forcible or nonforcible sex offenses, burglary, criminal damage to property, arson, theft, motor vehicle theft, robbery, weapons possession and criminal attempt for any of the aforementioned crimes, and arrests for

drug-related violations and liquor law violations.

- (4) "Postsecondary education institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, and any private college or university that is licensed by the Council on Postsecondary Education under KRS 164.945 to 164.947.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Crime log:

- (a) Each postsecondary education institution shall make, keep, and maintain a daily log, written in a form approved by the Council on Postsecondary Education that can be easily understood, recording all crimes occurring on campus and reported to campus security authorities or local law enforcement agencies, including:

1. The category of crime, and a description of the incident, date, time, and general location of each crime; and
2. The disposition of the complaint if known, including referral for prosecution, institutional disciplinary proceedings, or investigation by another state agency. The disposition shall include a reference to an investigation or incident report number.

- (b) All entries in the campus crime log shall be made available for public inspection within twenty-four (24) hours after the first report of an incident was made to any campus security authority or local law enforcement officials.

1. If there is clear and convincing evidence that the release of the information would cause a suspect to flee or evade detection, would result in the destruction of evidence, or is prohibited from release by law, the information may be withheld until that damage is no longer likely to occur from the release of the information. Only the information that is absolutely necessary to withhold for the reasons stated in this paragraph may be withheld; all other information shall be released.
2. In the event information is withheld under the provisions of paragraph (a) of this subsection, the crime shall still be reported and made available for public inspection.

- (c) The campus crime log required by this section shall be readily accessible and open for public inspection at all times and shall be made available on campus computer networks to which students, employees, and other campus community members have access. Each semester the institution shall notify currently enrolled students, students applying to the institution, and employees of the availability of the campus crime log, where it can be accessed, and the exact electronic address on the computer network.

- (2) Special reports: In addition to the campus crime log, each postsecondary education institution shall make timely reports to the campus community on crimes reported to campus security authorities or local law enforcement authorities determined by those authorities to present a safety or security threat to students or employees.

- (a) The reports shall be made available to students and employees within twenty-four (24) hours after an incident is first reported.
- (b) The information shall be reported in a manner that will aid in the prevention of similar occurrences.
- (c) Institutions shall use computer networks and post the reports in each residential facility. The institution may also use flyers and other campus publications including newspapers, and other media.
- (d) Each institution shall adopt a policy to comply with this requirement and the policy shall be included in the postsecondary education institution's annual campus safety and security report published in compliance with Section 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Under the provisions of KRS Chapter 227, the state fire marshal shall have jurisdiction over all property in the state including property of public postsecondary education institutions and property of any private college or university that is licensed by the Council on Postsecondary Education as provided for by KRS 164.945 to 164.947, insofar as it is necessary for the administration and enforcement of any duty imposed on the office by law or administrative regulation and all laws, ordinances, regulations, and orders designed to protect the public from fire loss.
- (2) The state fire marshal or the fire marshal's employee or appointee may, without delay or advance notice and at all reasonable hours of the day or night, enter in, or upon any property defined under KRS 227.200 located on the campus to make an inspection, investigation, or any other action necessary for the purpose of preventing fire loss or determining the origin of any fire.
- (3) No person shall obstruct, hinder, or delay such an officer in the performance of his or her duty.
- (4) Upon learning of a fire or threat of fire, campus security authorities shall immediately report each fire or threat of fire to the state fire marshal's office in Frankfort and the local deputies, assistants, and employees appointed under KRS 227.230.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Effective September 1, 2000, and each year thereafter, each postsecondary education institution shall submit to the Council on Postsecondary Education a statement of current policies concerning campus safety and security including, but not limited to:

- (1) The enforcement authority of security personnel, including their working relationship with state and local police agencies;
- (2) A description of programs designed to inform students and employees about the campus safety and security procedures and practices, how to report crimes, and how to prevent crimes; and
- (3) Statistics concerning the occurrence of crimes on campus during the most recent calendar year. The statistical data shall be reported by the number of occurrences based on:
 - (a) Location, broken down in the following classifications:
 1. Total number on campus:
 - a. Subtotal of occurrences indicating specifically those in dormitories or other residential facilities;
 - b. Subtotal of occurrences indicating specifically those in or on noncampus buildings or property; and
 2. On public property contiguous to the campus.
 - (b) Category of crime committed:
 1. As defined in Section 1 of this Act; and
 2. By category of prejudice, any crime reported to local police agencies or to a campus security authority, that manifests evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) In complying with the statistical and reporting requirements mandated in Sections 1 to 7 of this Act, an institution shall make a reasonable, good-faith effort to obtain statistics and crime reports from outside agencies. An institution that makes such an effort is not responsible for an outside agency's failure to provide statistics or crime reports or for verifying the accuracy of the statistics or reports that are provided.
- (2) The Council on Postsecondary Education shall specify formats for reporting to ensure uniformity.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any person violating the provisions of Sections 2 and 3 of this Act, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not less than five hundred dollars (\$500), nor more than one thousand five hundred dollars (\$1,500), or imprisoned in the county jail for up to thirty (30) days, or both.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Michael Minger Act.

HB 324, AN ACT relating to library media centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The board of education for each local school district shall establish and maintain a library media center in every elementary and secondary school to promote information literacy and technology in the curriculum, and to facilitate teaching, student achievement, and lifelong learning. Each school shall employ a school media librarian who holds the appropriate certificate of legal qualifications in accordance with KRS 161.020 and 161.030.

Section 2. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:

- (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.
- (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or
 3. Alternative schools designed to provide services to at-risk populations with unique needs.
- (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.
- (b)
 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.
 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.
- (c)
 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
 2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment.

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- (h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 - 1. Determination of curriculum, including needs assessment and curriculum development;
 - 2. Assignment of all instructional and noninstructional staff time;
 - 3. Assignment of students to classes and programs within the school;
 - 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 - 5. Determination of use of school space during the school day;
 - 6. Planning and resolution of issues regarding instructional practices;
 - 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 - 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
 - 9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.
- (3) The policy adopted by the local board to implement school-based decision making shall also address the following:
 - (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9)
 - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
 - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
 - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

The Committee Substitute No. 1 to **HB 324** is as follows:

HB 324, AN ACT relating to library media centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) The board of education for each local school district shall establish and maintain a library media center in every elementary and secondary school to promote information literacy and technology in the curriculum, and to facilitate teaching, student achievement, and lifelong learning.
- (2)
 - (a) Schools shall employ a school media librarian to organize, equip, and manage the operations of the school media library. The school media librarian shall hold the appropriate certificate of legal qualifications in accordance with KRS 161.020 and 161.030. A certified school media librarian may be employed to serve two (2) or more schools in a school district with the consent of the school councils.
 - (b) If a vacancy occurs, the school council may fill the vacancy on a temporary basis by employing:
 1. A person who is pursuing certification as a school media librarian in accordance with administrative regulations promulgated by the Education Professional Standards Board; or
 2. A temporary employee for a period not to exceed sixty (60) days.

Section 2. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group

underrepresented in the school.

- (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 - 1. Exclusively vocational-technical, special education, or preschool programs;
 - 2. Instructional programs operated in institutions or schools outside of the district; or
 - 3. Alternative schools designed to provide services to at-risk populations with unique needs.
- (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.
- (d) "Parent" means:
 - 1. A parent, stepparent, or foster parent of a student; or
 - 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.
- (b)
 - 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.
 - 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.
- (c)
 - 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
 - 2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.
 - (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. *The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment.*
 - (h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.
 - (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 - 1. Determination of curriculum, including needs assessment and curriculum development;
 - 2. Assignment of all instructional and noninstructional staff time;
 - 3. Assignment of students to classes and programs within the school;
 - 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 - 5. Determination of use of school space during the school day;
 - 6. Planning and resolution of issues regarding instructional practices;
 - 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 - 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
 - 9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.
- (3) The policy adopted by the local board to implement school-based decision making shall also address the following:
- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to

implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9)
 - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
 - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
 - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

HB 462, AN ACT relating to education finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.300 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby declares as a legislative finding of fact that the general welfare and well-being of the Commonwealth are directly related to the educational levels and skills of the citizens of the Commonwealth. Therefore, a vital and valid public purpose of the Commonwealth is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the Commonwealth.
- (2) The General Assembly finds, declares, and recognizes that the Commonwealth has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the institutions of higher education in Kentucky and the general welfare of the citizens and the Commonwealth will be enhanced by creation of a

program pursuant to which citizens and others may invest money in a public trust for future application to the payment of higher education costs in the Commonwealth and elsewhere and that the creation of a means of encouragement of citizens in the investment of funds for such future higher education application represents the carrying out of a valid and vital public purpose of the Commonwealth. In order to make available to the citizens of the Commonwealth an opportunity to fund future higher education needs for beneficiaries ~~[with certain public assistance]~~, it is necessary that a public trust be established in which the citizens of the Commonwealth and others may invest moneys for future educational use. ~~[It is further necessary to establish and create an endowment trust, which may be funded with public funds, among other sources, the income from which will be made available to participants in the savings plan trust to enhance their savings invested for future higher education costs.]~~

- (3) It is the intent of the General Assembly of the Commonwealth of Kentucky to create the Kentucky Educational Savings Plan Trust ~~[with a separate endowment trust to enhance the investment return of the savings plan trust]~~. The implementation and effectuation of the Kentucky Educational Savings Plan Trust as provided by KRS ~~164A.300~~~~[164A.310]~~ to 164A.380 constitutes the carrying out of a valid and vital public purpose for which public funds of the Commonwealth may be expended.
- (4) It is in the best interest of the people of the Commonwealth to establish and provide for the operation of the Kentucky Educational Savings Plan Trust in a manner conforming to federal law that allows participants and beneficiaries federal income taxation benefits on contributions and earnings on contributions expended by the trust for the higher education costs of a beneficiary.

Section 2. KRS 164A.305 is amended to read as follows:

As used in KRS 164A.300 to 164A.380, except where the context clearly requires another interpretation:

- (1) "Act" means the Kentucky Educational Savings Plan Trust Act codified at KRS 164A.300 to 164A.380;
- (2) "Administrative fund" means the funds used to administer the Kentucky Educational Savings Plan Trust;
- (3) "Beneficiary" means:
 - (a) Any person designated at the commencement of participation by a participation agreement to benefit from payments for higher education costs at an institution of higher education;
 - (b) The new beneficiary, in the case of a change of beneficiaries pursuant to KRS 164A.330~~(4)~~~~[(7)]~~; or
 - (c) The scholarship recipient, in the case of a participation agreement entered into as part of a scholarship program operated by a state or local government organization or an organization described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), that is exempt from federal income taxation pursuant to Section 501(a) of that code;
- (4) "Benefits" means the payment of higher education costs on behalf of a beneficiary by the savings plan trust during the beneficiary's attendance at an institution of higher education;
- (5) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority;
- ~~(6) ["Endowment trust" means the endowment fund established pursuant to KRS 164A.337 which shall be administered as a separate trust;]~~
- ~~(7) ["Higher education costs" means the costs specified in section 529(e)(3) of the Internal Revenue Code of 1986 as amended for attendance at an institution of higher education as determined and certified by the institution of higher education in the same manner as prescribed in Title IV of the Higher Education Act of 1965, 20 U.S.C. sec. 1087I, as amended;]~~
- ~~(7) [(8)]~~ "Institution of higher education" means an institution as defined in Section 529(e)(5) of the Internal Revenue Code of 1986, as amended;
- ~~(8) [(9)]~~ "Kentucky Educational Savings Plan Trust" or "savings plan trust" means the trust created pursuant to KRS 164A.310;
- ~~(9) [(10)]~~ "Participant" means an organization described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), that is exempt from federal income taxation pursuant to Section 501(a) of that code, an individual, firm, corporation, a state or local government organization, or a legal representative of any of the foregoing who has entered into a participation agreement pursuant to KRS 164A.300 to 164A.380 for the advance payment of higher education costs on behalf of a beneficiary;
- ~~(10) [(11)]~~ "Participation agreement" means an agreement between a participant and the savings plan trust, pursuant to and conforming with the requirements of KRS 164A.300 to 164A.380;
- ~~(11) [(12)]~~ "Program administrator" means the administrator of the savings plan trust appointed by the board to administer and manage the trust;
- ~~(12) [(13)]~~ "Program fund" means the program fund established by KRS 164A.335 which shall be held as a separate fund within the savings plan trust;
- ~~(13) [(14)]~~ "Tuition" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment;
- ~~(14) [(15)]~~ "Vested participation agreement" means a participation agreement which has been in full force and effect during

eight (8) continuous years of residency of the beneficiary in the Commonwealth while participating in the savings plan trust.

Section 3. KRS 164A.310 is amended to read as follows:

There is hereby created an instrumentality of the Commonwealth to be known as the Kentucky Educational Savings Plan Trust. The board, in the capacity of trustee, shall have the power and authority to:

- (1) Sue and be sued;
- (2) Make and enter into contracts necessary for the administration of the savings plan trust pursuant to KRS 164A.300 to 164A.380;
- (3) Adopt a corporate seal and to change and amend it from time to time;
- (4) Invest moneys within the program fund in any investments determined by the board to be appropriate, notwithstanding any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the savings plan trust;
- (5) Enter into agreements with any institution of higher education, the Commonwealth of Kentucky, or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to KRS 164A.300 to 164A.380;
- (6) Accept any grants, gifts, legislative appropriations, and other moneys from the Commonwealth, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;
- (7) Enter into participation agreements with participants;
- (8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;
- (9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in KRS 164A.300 to 164A.380;
- (10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation within the provisions of KRS Chapter 18A;
- (11) **Delegate to the program administrator general supervision and direction over the administrative function of the trust and its employees in carrying out the policies, programs, administrative regulations, and directives of the board;**
- (12) Make provision for the payment of costs of administration and operation of the savings plan trust;
- ~~(13)~~[(12)] Carry out the duties and obligations of the savings plan trust pursuant to KRS 164A.300 to 164A.380 and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the savings plan trust and KRS 164A.300 to 164A.380; and
- ~~(14)~~[(13)] Promulgate administrative regulations to implement the provisions of KRS 164A.300 to 164A.380 consistent with the federal Internal Revenue Code and administrative regulations issued pursuant to that code.

Section 4. KRS 164A.325 is amended to read as follows:

In addition to effectuating and carrying out all of the powers granted by KRS 164A.300 to 164A.380, the board, **as trustee**, shall have all powers necessary to carry out and effectuate the purposes, objectives, and provisions of KRS 164A.300 to 164A.380 pertaining to the savings plan trust, including, but not limited to, the power to:

- (1) Engage investment advisors to assist in the investment of savings plan trust assets;
- (2) Carry out studies and projections in order to advise participants regarding present and estimated future higher education costs and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;
- (3) Contract, **in accordance with the provisions of KRS 45A.345 to 45A.460 under KRS 45A.343**, for goods and services and engage personnel as necessary, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice, all of which contract obligations and services shall be payable from any moneys of the trust;
- (4) Participate in any other way in any federal, state, or local governmental program for the benefit of the savings plan trust;
- (5) Promulgate, impose, and collect administrative fees and charges in connection with transactions of the savings plan trust, and provide for reasonable service charges, including penalties for cancellations and late payments in respect of participation agreements;
- (6) Procure insurance against any loss in connection with the property, assets or activities of the savings plan trust;
- (7) Administer the funds of the savings plan trust;
- (8) Procure insurance indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the board; and

- (9) Promulgate reasonable rules and regulations for the administration of the savings plan trust.

Section 5. KRS 164A.330 is amended to read as follows:

The savings plan trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

- (1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of contributions based upon changed circumstances or changes in educational plans and may contain penalties for failure to make contributions when scheduled;
- (2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump-sum contribution participation agreement in connection with which a single, lump-sum contribution is made by the participant for the benefit of a beneficiary;
- (3) ~~[The participation agreement shall specify the minimum rate of interest which shall be borne by the investment made by the participant;~~
- ~~(4) Beneficiaries designated in participation agreements may be designated from date of birth through age fourteen (14);~~
- ~~(5) Payment of benefits provided under participation agreements must begin not later than the first full academic semester at an institution of higher education following the eighteenth birthday of the subject beneficiary unless the participant notifies the program administrator to delay payment of benefits for a designated period of time. At the end of that designated period of time, the payment of benefits shall begin unless the participant again notifies the program administrator to delay payment of benefits;~~
- (6) The execution of a participation agreement by the trust shall not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:
 - (a) Be admitted to an institution of higher education;
 - (b) If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;
 - (c) Be allowed to continue attendance at the institution of higher education following admission; or
 - (d) Graduate from the institution of higher education;
- ~~(4)(7) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant [prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education] provided, however, that the substitute beneficiary shall be eligible;~~
- ~~(5)(8) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters;~~
- ~~(6)(9) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky [prior to enrollment in any other educational institution];~~
- ~~(7)(10) Each participation agreement shall provide that it may be canceled under the terms and conditions, including payment of the fees and costs, set forth in the rules and regulations promulgated by the board;~~
- ~~(8)(11) The participation agreement shall ensure that contributions made pursuant to subsections (1) and (2) of this section shall not be made in real or personal property other than cash and shall not exceed the anticipated higher education costs of the beneficiary;~~
- ~~(9)(12) The participation agreement shall provide that the participant and the beneficiary shall not directly or indirectly or otherwise control the investment of contributions or earnings on contributions;~~
- ~~(10)(13) Information obtained from a participant or a beneficiary and other personally identifiable records made by the trust in the administration of this chapter [are confidential and] shall not be published or be open for public inspection pursuant to KRS 61.870 to 61.884, except as provided below:~~
 - (a) Upon written request, a participant or beneficiary or his legal representative shall be entitled to be advised of the aggregate balance of contributions and earnings for all participation agreements that designate that same beneficiary;
 - (b) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released;
 - (c) Statistical information derived from information and records obtained or made by the trust may be published, if it in no way reveals the identity of any participant or beneficiary; and
 - (d) Nothing in this section shall preclude the program administrator or any employee of the board from testifying or introducing as evidence information or records obtained or made by the trust in any proceeding under this chapter,

in an action to which the trust is a party, or upon order of a court.

Section 6. KRS 164A.335 is amended to read as follows:

The board, *as trustee*, shall segregate moneys received by the savings plan trust into two (2) funds, which shall be identified as the program fund and the administrative fund. Transfers may be made from the program fund to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by KRS 164A.300 to 164A.380. All moneys credited to the administrative fund shall be deposited in accordance with KRS 41.070. All moneys paid by participants in connection with participation agreements shall be deposited as received into the program fund and shall be promptly invested and accounted for separately. Contributions shall be accounted for separately for each beneficiary. Deposits and interest thereon accumulated on behalf of participants in the program fund of the savings plan trust may be used for payments to any institution of higher education. ~~[However, no rights to any moneys derived from the endowment trust shall exist if moneys payable under the participation agreement are paid to an education institution which is not an institution of higher education in Kentucky, as defined by KRS 164A.300 to 164A.380.]~~

Section 7. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The ~~trust~~~~participant~~ shall ~~exercise~~~~retain~~ ownership of all contributions made under any participation agreement *and all interest derived from the investment of the contributions made by the participant* up to the date of utilization for payment of higher education costs for the beneficiary. ~~[and]~~ All *contributions made under any participant agreement* *and* interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement *at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee.* In the event the participation agreement is terminated *in part*, the ~~trust~~~~participant~~ shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and *not returned to the participant. The participant shall retain* a reversionary right to receive *upon termination the actual market value of the participant's account at the time of the cancellation, including* interest ~~[on all the contributions at the rate of interest at which the contributions were invested]~~, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- (3) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- (4) The institution of higher education shall obtain ownership of the *distributions made from the participant's account*~~[contributions made]~~ for the higher education costs paid to the institution at the time each payment is made to the institution;
- (5) Any amounts *received by the trust*~~[which may be paid]~~ pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section, shall be owned by the trust;
- (6) A participant may transfer ~~the participant's~~~~ownership~~ rights to another eligible participant, including, but not limited to, a gift of the ~~participant's~~~~ownership~~ rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- (7) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- (8) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 8. KRS 164A.360 is amended to read as follows:

The board, as trustee, may establish, by the promulgation of administrative regulations in accordance with KRS Chapter 13A, a program of lending from any funds available to the trust, for participants and beneficiaries to~~In connection with any participation agreement as to which benefits for payment of higher education costs have accrued and are being paid or are eligible to be paid, the participant thereof may~~ borrow from the trust~~[- but only]~~ for the sole purpose of paying higher education costs to an institution of higher education. The interest rate payable by ~~borrowers~~~~[participants]~~ for any such borrowing shall be a rate~~[- as]~~ established by the board from time to time. Any contribution to such loan program from the program fund~~[trust funds]~~ or any loan made from the program fund~~[with trust funds]~~ shall be insured.

Section 9. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. *Investment income*~~[Interest]~~ earned on contributions~~[moneys]~~ paid by any participant and used for higher education costs defined in KRS 164A.305(7)(a) and 164A.305(7)(b) shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income~~[interest]~~ was accrued being deemed and declared to be entirely public in nature. *Earnings that are not used for higher education costs as defined in KRS 164A.305(7) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(7)(a) and 164A.350(7)(b).*

Section 10. KRS 164A.375 is amended to read as follows:

The assets of the trust, including the program fund~~[- and the endowment fund]~~, shall at all times be preserved, invested and expended solely and only for the purposes of the trust and shall be held in trust for the participants and beneficiaries and no property rights therein shall exist in favor of the Commonwealth. The assets shall not be transferred or used by the Commonwealth for any purposes other than the purposes of the trust.

Section 11. Moneys held by the Kentucky Educational Savings Plan Trust on June 30, 2000, as an endowment for purposes of distributing investment earnings to beneficiaries enrolled in an institution of higher education in Kentucky may, at the discretion of the board of directors of the Kentucky Higher Education Assistance Authority in its capacity of trustee, be distributed as follows:

- (1) The investment earnings on the endowment fund accrued as of June 30, 2000, shall be allocated and proportionally added to each participant's account in the program fund; and
- (2) The remainder of the moneys held in the endowment fund on June 30, 2000, including, but not limited to, any contributions to the endowment, may be distributed in any amount and combination of the following dispositions:
 - (a) Proportionally added to each participant's account in the program fund; or
 - (b) Transferred to the administrative fund.

The Committee Substitute No. 1 to **HB 462** is as follows:

HB 462, AN ACT relating to education finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.300 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby declares as a legislative finding of fact that the general welfare and well-being of the Commonwealth are directly related to the educational levels and skills of the citizens of the Commonwealth. Therefore, a vital and valid public purpose of the Commonwealth is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the Commonwealth.
- (2) The General Assembly finds, declares, and recognizes that the Commonwealth has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the institutions of higher education in Kentucky and the general welfare of the citizens and the Commonwealth will be enhanced by creation of a program pursuant to which citizens and others may invest money in a public trust for future application to the payment of higher education costs in the Commonwealth and elsewhere and that the creation of a means of encouragement of citizens in the investment of funds for such future higher education application represents the carrying out of a valid and vital public purpose of the Commonwealth. In order to make available to the citizens of the Commonwealth an opportunity to fund future higher education needs for beneficiaries~~[- with certain public assistance]~~, it is necessary that a public trust be established in which the citizens of the Commonwealth and others may invest moneys for future educational use.~~[- It is further necessary to establish and create an endowment trust, which may be funded with public funds, among other sources, the income from which will be made available to participants in the savings plan trust to enhance their savings invested for future higher education costs.]~~
- (3) It is the intent of the General Assembly of the Commonwealth of Kentucky to create the Kentucky Educational Savings Plan Trust~~[- with a separate endowment trust to enhance the investment return of the savings plan trust]~~. The implementation and effectuation of the Kentucky Educational Savings Plan Trust as provided by KRS

~~164A.300~~~~[164A.310]~~ to 164A.380 constitutes the carrying out of a valid and vital public purpose for which public funds of the Commonwealth may be expended.

- (4) It is in the best interest of the people of the Commonwealth to establish and provide for the operation of the Kentucky Educational Savings Plan Trust in a manner conforming to federal law that allows participants and beneficiaries federal income taxation benefits on contributions and earnings on contributions expended by the trust for the higher education costs of a beneficiary.

Section 2. KRS 164A.305 is amended to read as follows:

As used in KRS 164A.300 to 164A.380, except where the context clearly requires another interpretation:

- (1) "Act" means the Kentucky Educational Savings Plan Trust Act codified at KRS 164A.300 to 164A.380;
- (2) "Administrative fund" means the funds used to administer the Kentucky Educational Savings Plan Trust;
- (3) "Beneficiary" means:
 - (a) Any person designated at the commencement of participation by a participation agreement to benefit from payments for higher education costs at an institution of higher education;
 - (b) The new beneficiary, in the case of a change of beneficiaries pursuant to KRS 164A.330~~(4)~~~~(7)~~; or
 - (c) The scholarship recipient, in the case of a participation agreement entered into as part of a scholarship program operated by a state or local government organization or an organization described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), that is exempt from federal income taxation pursuant to Section 501(a) of that code;
- (4) "Benefits" means the payment of higher education costs on behalf of a beneficiary by the savings plan trust during the beneficiary's attendance at an institution of higher education;
- (5) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority;
- ~~(6)~~ "Endowment trust" means the endowment fund established pursuant to KRS 164A.337 which shall be administered as a separate trust;
- ~~(7)~~ "Higher education costs" means the costs specified in section 529(e)(3) of the Internal Revenue Code of 1986 as amended for attendance at an institution of higher education as determined and certified by the institution of higher education in the same manner as prescribed in Title IV of the Higher Education Act of 1965, 20 U.S.C. sec. 1087II, as amended;
- ~~(7)~~~~(8)~~ "Institution of higher education" means an institution as defined in Section 529(e)(5) of the Internal Revenue Code of 1986, as amended;
- ~~(8)~~~~(9)~~ "Kentucky Educational Savings Plan Trust" or "savings plan trust" means the trust created pursuant to KRS 164A.310;
- ~~(9)~~~~(10)~~ "Participant" means an organization described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), that is exempt from federal income taxation pursuant to Section 501(a) of that code, an individual, firm, corporation, a state or local government organization, or a legal representative of any of the foregoing who has entered into a participation agreement pursuant to KRS 164A.300 to 164A.380 for the advance payment of higher education costs on behalf of a beneficiary;
- ~~(10)~~~~(11)~~ "Participation agreement" means an agreement between a participant and the savings plan trust, pursuant to and conforming with the requirements of KRS 164A.300 to 164A.380;
- ~~(11)~~~~(12)~~ "Program administrator" means the administrator of the savings plan trust appointed by the board to administer and manage the trust;
- ~~(12)~~~~(13)~~ "Program fund" means the program fund established by KRS 164A.335 which shall be held as a separate fund within the savings plan trust;
- ~~(13)~~~~(14)~~ "Tuition" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment;
- ~~(14)~~~~(15)~~ "Vested participation agreement" means a participation agreement which has been in full force and effect during eight (8) continuous years of residency of the beneficiary in the Commonwealth while participating in the savings plan trust.

Section 3. KRS 164A.310 is amended to read as follows:

There is hereby created an instrumentality of the Commonwealth to be known as the Kentucky Educational Savings Plan Trust. The board, in the capacity of trustee, shall have the power and authority to:

- (1) Sue and be sued;
- (2) Make and enter into contracts necessary for the administration of the savings plan trust pursuant to KRS 164A.300 to 164A.380;
- (3) Adopt a corporate seal and to change and amend it from time to time;
- (4) Invest moneys within the program fund in any investments determined by the board to be appropriate, notwithstanding

any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the savings plan trust;

- (5) Enter into agreements with any institution of higher education, the Commonwealth of Kentucky, or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to KRS 164A.300 to 164A.380;
- (6) Accept any grants, gifts, legislative appropriations, and other moneys from the Commonwealth, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;
- (7) Enter into participation agreements with participants;
- (8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;
- (9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in KRS 164A.300 to 164A.380;
- (10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation within the provisions of KRS Chapter 18A;
- (11) *Delegate to the program administrator general supervision and direction over the administrative function of the trust and its employees in carrying out the policies, programs, administrative regulations, and directives of the board;*
- (12) Make provision for the payment of costs of administration and operation of the savings plan trust;
- ~~(13)~~~~(12)~~ Carry out the duties and obligations of the savings plan trust pursuant to KRS 164A.300 to 164A.380 and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the savings plan trust and KRS 164A.300 to 164A.380; and
- ~~(14)~~~~(13)~~ Promulgate administrative regulations to implement the provisions of KRS 164A.300 to 164A.380 consistent with the federal Internal Revenue Code and administrative regulations issued pursuant to that code.

Section 4. KRS 164A.325 is amended to read as follows:

In addition to effectuating and carrying out all of the powers granted by KRS 164A.300 to 164A.380, the board, *as trustee*, shall have all powers necessary to carry out and effectuate the purposes, objectives, and provisions of KRS 164A.300 to 164A.380 pertaining to the savings plan trust, including, but not limited to, the power to:

- (1) Engage investment advisors to assist in the investment of savings plan trust assets;
- (2) Carry out studies and projections in order to advise participants regarding present and estimated future higher education costs and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;
- (3) Contract, *in accordance with the provisions of KRS 45A.345 to 45A.460 under KRS 45A.343*, for goods and services and engage personnel as necessary, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice, all of which contract obligations and services shall be payable from any moneys of the trust;
- (4) Participate in any other way in any federal, state, or local governmental program for the benefit of the savings plan trust;
- (5) Promulgate, impose, and collect administrative fees and charges in connection with transactions of the savings plan trust, and provide for reasonable service charges, including penalties for cancellations and late payments in respect of participation agreements;
- (6) Procure insurance against any loss in connection with the property, assets or activities of the savings plan trust;
- (7) Administer the funds of the savings plan trust;
- (8) Procure insurance indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the board; and
- (9) Promulgate reasonable rules and regulations for the administration of the savings plan trust.

Section 5. KRS 164A.330 is amended to read as follows:

The savings plan trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

- (1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of contributions based upon changed circumstances or changes in educational plans and may contain penalties for failure to make contributions when scheduled;
- (2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump-sum contribution participation agreement in connection with which a single, lump-sum contribution is made by the participant for the benefit of a beneficiary;

- (3) ~~[The participation agreement shall specify the minimum rate of interest which shall be borne by the investment made by the participant;~~
- (4) ~~Beneficiaries designated in participation agreements may be designated from date of birth through age fourteen (14);~~
- (5) ~~Payment of benefits provided under participation agreements must begin not later than the first full academic semester at an institution of higher education following the eighteenth birthday of the subject beneficiary unless the participant notifies the program administrator to delay payment of benefits for a designated period of time. At the end of that designated period of time, the payment of benefits shall begin unless the participant again notifies the program administrator to delay payment of benefits;~~
- (6) ~~The]~~Execution of a participation agreement by the trust shall not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:
- (a) Be admitted to an institution of higher education;
 - (b) If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;
 - (c) Be allowed to continue attendance at the institution of higher education following admission; or
 - (d) Graduate from the institution of higher education;
- (4)(7) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant ~~[prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education]~~ provided, however, that the substitute beneficiary shall be eligible;
- (5)(8) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters;
- (6)(9) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky ~~[prior to enrollment in any other educational institution];~~
- (7)(10) Each participation agreement shall provide that it may be canceled under the terms and conditions, including payment of the fees and costs, set forth in the rules and regulations promulgated by the board;
- (8)(11) The participation agreement shall ensure that contributions made pursuant to subsections (1) and (2) of this section shall not be made in real or personal property other than cash and shall not exceed the anticipated higher education costs of the beneficiary;
- (9)(12) The participation agreement shall provide that the participant and the beneficiary shall not directly or indirectly or otherwise control the investment of contributions or earnings on contributions;
- (10)(13) Information obtained from a participant or a beneficiary and other personally identifiable records made by the trust in the administration of this chapter ~~[are confidential and]~~ shall not be published or be open for public inspection pursuant to KRS 61.870 to 61.884, except as provided below:
- (a) Upon written request, a participant or beneficiary or his legal representative shall be entitled to be advised of the aggregate balance of contributions and earnings for all participation agreements that designate that same beneficiary;
 - (b) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released;
 - (c) Statistical information derived from information and records obtained or made by the trust may be published, if it in no way reveals the identity of any participant or beneficiary; and
 - (d) Nothing in this section shall preclude the program administrator or any employee of the board from testifying or introducing as evidence information or records obtained or made by the trust in any proceeding under this chapter, in an action to which the trust is a party, or upon order of a court.

Section 6. KRS 164A.335 is amended to read as follows:

The board, as trustee, shall segregate moneys received by the savings plan trust into two (2) funds, which shall be identified as the program fund and the administrative fund. Transfers may be made from the program fund to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by KRS 164A.300 to 164A.380. All moneys credited to the administrative fund shall be deposited in accordance with KRS 41.070. All moneys paid by participants in connection with participation agreements shall be deposited as received into the program fund and shall be promptly invested and accounted for separately. Contributions shall be accounted for separately for each beneficiary. Deposits and interest thereon accumulated on behalf of participants in the program fund of the savings plan trust may be used for payments to any institution of higher education. ~~[However, no rights to any moneys derived from the endowment trust shall exist if moneys payable under the participation agreement are paid to an education institution which is not an institution of higher education in Kentucky, as defined by KRS 164A.300 to 164A.380.]~~

Section 7. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The ~~trust~~(participant) shall ~~exercise~~(retain) ownership of all contributions made under any participation agreement **and all interest derived from the investment of the contributions made by the participant** up to the date of utilization for payment of higher education costs for the beneficiary, ~~and~~ All **contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant** shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement **at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee.** In the event the participation agreement is terminated **in part**, the ~~trust~~(participant) shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and **not returned to the participant. The participant shall retain** a reversionary right to receive **upon termination the actual market value of the participant's account at the time of the cancellation, including interest** ~~on all the contributions at the rate of interest at which the contributions were invested~~, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- (3) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- (4) The institution of higher education shall obtain ownership of the **distributions made from the participant's account**(contributions made) for the higher education costs paid to the institution at the time each payment is made to the institution;
- (5) Any amounts **received by the trust**(which may be paid) pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section, shall be owned by the trust;
- (6) A participant may transfer **the participant's ownership**(ownership) rights to another eligible participant, including, but not limited to, a gift of the **participant's ownership**(ownership) rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- (7) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- (8) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 8. KRS 164A.360 is amended to read as follows:

The board, as trustee, may establish, by the promulgation of administrative regulations in accordance with KRS Chapter 13A, a program of lending from any funds available to the trust, for participants and beneficiaries to ~~In connection with any participation agreement as to which benefits for payment of higher education costs have accrued and are being paid or are eligible to be paid, the participant thereof may~~ borrow from the trust, ~~but only~~ for the **sole** purpose of paying higher education costs to an institution of higher education. The interest rate payable by **borrowers**(participants) for any such borrowing shall be a rate ~~as~~ established by the board from time to time. Any contribution to such loan program from **the program fund**(trust funds) or any loan made **from the program fund**(with trust funds) shall be insured.

Section 9. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. **Investment income**(interest) earned on **contributions**(moneys) paid by any participant **and used for higher education costs defined in KRS 164A.305(7) or refunded under KRS 164A.350(7)(a) or 164A.350(7)(b)** shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the

investment income[interest] was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(7) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(7)(a) and 164A.350(7)(b).

Section 10. KRS 164A.375 is amended to read as follows:

The assets of the trust, including the program fund ~~and the endowment fund~~, shall at all times be preserved, invested and expended solely and only for the purposes of the trust and shall be held in trust for the participants and beneficiaries and no property rights therein shall exist in favor of the Commonwealth. The assets shall not be transferred or used by the Commonwealth for any purposes other than the purposes of the trust.

Section 11. Moneys held by the Kentucky Educational Savings Plan Trust on June 30, 2000, as an endowment for purposes of distributing investment earnings to beneficiaries enrolled in an institution of higher education in Kentucky may, at the discretion of the board of directors of the Kentucky Higher Education Assistance Authority in its capacity of trustee, be distributed as follows:

- (1) The investment earnings on the endowment fund accrued as of June 30, 2000, shall be allocated and proportionally added to each participant's account in the program fund; and
- (2) The remainder of the moneys held in the endowment fund on June 30, 2000, including, but not limited to, any contributions to the endowment, may be distributed in any amount and combination of the following dispositions:
 - (a) Proportionally added to each participant's account in the program fund; or
 - (b) Transferred to the administrative fund.

HCR 8, A CONCURRENT RESOLUTION confirming the appointment of Nick Orlando Rowe to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed Nick Orlando Rowe as a member of the Governor's Postsecondary Education Nominating Committee representing the 5th Supreme Court District for a term expiring April 14, 2004; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of April 22, 1998, the Governor has delivered Nick Orlando Rowe's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Nick Orlando Rowe meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Nick Orlando Rowe to the Governor's Postsecondary Education Nominating Committee for a term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Nick Orlando Rowe, 1101 Beaumont Centre Lane, Apartment 4104, Lexington, Kentucky 40513, in writing, of the General Assembly's action.

HCR 11, A CONCURRENT RESOLUTION confirming the appointment of Sheila Owsley Thomas to the Postsecondary Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed Sheila Owsley Thomas as a member of the Postsecondary Education Nominating Committee to fill an unexpired term ending April 14, 2004; and

WHEREAS, appointments to the Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of March 26, 1999, the Governor has delivered the name of Sheila Owsley Thomas of Booneville, Kentucky for confirmation as a member of the committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Sheila Owsley Thomas meets the requirements established in KRS 164.005 for membership on the Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and Senate hereby confirm the appointment of Sheila Owsley Thomas to the

Postsecondary Education Nominating Committee to fill the remainder of a term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Sheila Owsley Thomas, HC 64 Box 643, Booneville, Kentucky 41314, in writing, of the General Assembly's action.

HCR 22, A CONCURRENT RESOLUTION confirming the appointment of Margaret Katherine Harris to the Postsecondary Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed Margaret Katherine Harris as a member of the Postsecondary Education Nominating Committee for a term ending April 14, 2004; and

WHEREAS, appointments to the Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of April 22, 1998, the Governor has delivered the name of Margaret Katherine Harris of Loyall, Kentucky for confirmation as a member of the committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Margaret Katherine Harris meets the requirements established in KRS 164.005 for membership on the Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and Senate hereby confirm the appointment of Margaret Katherine Harris to the Postsecondary Education Nominating Committee for a term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Margaret Katherine Harris, P.O. Box 523, Loyall, Kentucky 40854, in writing, of the General Assembly's action.

The Committee on Transportation reported **HB 231, HB 443**, with Committee Substitute and Committee Amendment attached thereto, **HB 488**, with Committee Substitute attached thereto, **HB 542, HJR 78, and SJR 17** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 231, AN ACT relating to the licensing of trailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.675 is amended to read as follows:

- (1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(1) shall be four dollars and fifty cents (\$4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) shall be nineteen dollars and fifty cents (\$19.50).
- (2) The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of:
 - (a) Boats;~~{ }~~
 - (b) Luggage;~~{ }~~
 - (c) Personal effects;~~{ }~~
 - (d) Farm products, farm supplies, or farm equipment;
 - (e) All-terrain vehicles as defined in KRS 189.010(24);
 - (f) Wildlife as defined in KRS 150.010(41) that the owner or operator of the trailer has obtained while hunting;
and
 - (g) Firearms or other supplies used in conjunction with hunting wildlife.
- (3) The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents (\$9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents (\$4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar (\$1).
- (4)~~(2)~~ Beginning April 1, 1993, at the request of the owner, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) may be permanently registered, except the registration shall expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner. The registration fee for the period shall be ninety-eight dollars (\$98). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of three dollars (\$3).

HB 443, AN ACT relating to salvage motor vehicle titles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.520 is amended to read as follows:

- (1) (a) Except as provided for in paragraph (b) of this subsection, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:
 - 1.[(a)] A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.
 - 2.[(b)] The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.
 - 3.[(c)] The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.
- (b) A salvage title may be obtained by the owner of a vehicle damaged solely by hail to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide, provided the vehicle can be legally operated on the highway.
- (2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.
- (3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a title.
- (4) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.
- (5) The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

Section 2. KRS 186A.530 is amended to read as follows:

- (1) The owner of a motor vehicle that meets the definition of a salvage vehicle as set forth in KRS 186A.520(1) and has been issued a salvage certificate of title in Kentucky, or the equivalent thereof by another licensing jurisdiction, and has been rebuilt, may make application for a new certificate of title pursuant to KRS 186.115. The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A governing the form of application.
- (2) Upon receipt of a salvage certificate of title issued pursuant to KRS 186A.520 or subsection (5) of this section, or similar title issued by another state, and proof of passing the inspection required by KRS 186A.115, the cabinet shall issue a new certificate of title with the words "rebuilt vehicle" printed on the face of the title. The brand shall be carried forward and printed in the appropriate section on the face of all titles issued thereafter for that motor vehicle.
- (3) If ownership of a motor vehicle has been transferred to an insurance company through payment of damages, the insurance company making the payment of damages shall be deemed the owner of the vehicle.
- (4) The owner of a water damaged vehicle shall make application to the cabinet for a salvage certificate of title as provided for in KRS 186A.520. The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as water damaged or other similar designation who is making application for a Kentucky title shall be issued a title with the words "water damaged" printed on the face of the title.
- (5) A Kentucky salvage certificate of title may be issued from an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification with the following provisions:
 - (a) The out-of-state junking certificate of title or other ownership certificate shall be an original, secure document.
 - (b) The applicant shall submit a minimum of two (2) photographs of the motor vehicle showing the damage to the motor vehicle. The photographs shall be included in the application for a salvage certificate of title.
 - (c) The applicant shall submit a minimum of two (2) estimates of damage verifying that the condition of the vehicle

which has been issued the junking certificate constitutes less than seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Auto Dealers' Association N.A.D.A. price guide.

- (6) (a) When an insurance company makes a claim settlement on a vehicle that has been stolen and recovered, if the vehicle meets the definition of a salvage vehicle as set forth in KRS 186A.520, the company shall apply for a salvage certificate of title as provided for in KRS 186A.520. Upon receipt of this information, the cabinet shall issue the company a certificate of title to replace a salvage certificate of title. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A regarding the forms and any additional information which insurance companies shall be required to obtain and submit when seeking a certificate of title to replace a salvage certificate of title.
- (b) In claim settlements that do not involve transfer of the vehicle to the insurance company, an insurer shall not render payment on a damage claim for a vehicle whose damage meets or exceeds seventy-five percent (75%) of the value of the vehicle, until the insurer has received proof that the owner has surrendered the title or has applied for a salvage certificate of title as set forth in KRS 186A.520. The owner shall apply for a salvage certificate of title within three (3) working days of the agreed settlement. *This subsection shall not apply to hail-damaged vehicles under paragraph (b) of subsection (1) of Section 1 of this Act.*
- (c) An insurance company shall not refuse coverage to, and shall not reclassify coverage of, a vehicle that has been issued a rebuilt title pursuant to the provisions of this section.
- (7) A motor vehicle owner or a motor vehicle dealer licensed in this state who offers for sale, trade, or transfer a motor vehicle which carries a title brand, as set forth in subsection (2) of this section, shall disclose the nature of the brand to any prospective buyer or transferee, prior to the sale, and according to the following:
 - (a) Dealer disclosure shall be located on the previous consumer-owner sticker provided for in KRS 190.080. The sticker notification shall appear in a color different from that of the previous consumer-owner sticker and shall be set apart from other information required by KRS 190.080. The sticker wording shall be printed in at least ten (10) point, bold face type, on a background of obviously different color, and shall include the following: "THIS IS A REBUILT VEHICLE." This disclosure information shall not appear on previous consumer-owner stickers for vehicles that do not have a branded title. Dealer disclosure shall also be located on a buyer's notification form to be approved by the Transportation Cabinet. The form shall inform the buyer that the vehicle is a rebuilt vehicle and may include any other information the cabinet deems necessary.
 - (b) Nondealer disclosure shall be made in accordance with the procedures provided for in KRS 186A.060. The Department of Vehicle Regulation shall ensure that disclosure information appears near the beginning of the application for title and informs the buyer that the vehicle is a rebuilt vehicle.
- (8) Failure of a dealer to procure the buyer's acknowledgment signature on the buyer's notification form or failure of any person other than a dealer to procure the buyer's acknowledgment signature on the vehicle transaction record form shall render the sale voidable at the election of the buyer. The election to render the sale voidable shall be limited to forty-five (45) days after issuance of the title. This provision shall not bar any other remedies otherwise available to the purchaser.
- (9) The notification provisions of this section shall not apply to motor vehicles more than ten (10) model years old.
- (10) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A, regarding the administration of the title branding procedure within ninety (90) days from July 15, 1994. The administrative regulations may include designation of additional brands which provide significant information to the owner.

The Committee Substitute to **HB 443** is as follows:

HB 443, AN ACT relating to salvage motor vehicle titles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of KRS 186A.500 to 186A.550 notwithstanding, the owner of a motor vehicle that has been damaged solely by hail shall have the regular title of the vehicle branded as follows "Hail Damage" if:*
 - (a) *The vehicle is in a condition that it can be legally operated on the highway;*
 - (b) *The total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its pre-hail condition exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide; and*
 - (c) *The owner intends to retain ownership of the vehicle.*
- (2) *A person seeking to have the title of a vehicle branded for hail damage under subsection (1) of this section shall present the sheriff with a statement from the person's insurance company that the damage exceeds seventy-five percent (75%) of the retail value of the vehicle and is solely the result of hail damage, and shall have the vehicle inspected by the sheriff of the county in which the vehicle is registered. Upon completion of inspection of the vehicle, the sheriff*

shall indicate on the vehicle transaction record form if he or she has received a statement from the person's insurance company that the damage to the vehicle is the result of hail damage and if the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its pre-hail condition exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide. The sheriff shall be paid a fee of five dollars (\$5) to conduct an inspection under this subsection.

- (3) Upon completion of the inspection required under subsection (2) of this section, a person shall take the vehicle transaction record form and the title to the vehicle to the office of the county clerk in the county in which the vehicle is registered. If the sheriff has certified on the vehicle transaction record form that the damage to the vehicle is the result of hail damage and if the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its pre-hail condition exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide, the title shall not be surrendered to the clerk, but the clerk shall stamp on the face of the title "Hail Damage". The clerk shall also enter into the Automated Motor Vehicle Registration System (AVIS) the information that the title has been branded in the clerk's office "Hail Damage". The county clerk shall be paid a fee of three dollars (\$3) to carry out the provisions of this subsection.
- (4) A title branded "Hail Damage" under the provisions of subsection (3) of this section shall retain the brand for as long as the person holds title to the vehicle, and upon the sale or transfer of the vehicle, the new title issued shall continue to carry the brand "Hail Damage".
- (5) An insurance company shall not render payment on a vehicle damaged solely by hail in excess of seventy-five percent (75%) of the retail value of the vehicle until the title has been branded "Hail Damage".

Section 2. KRS 186A.520 is amended to read as follows:

- (1) Except as provided in Section 1 of this Act, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:
- (a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.
 - (b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.
 - (c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.
- (2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.
- (3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a title.
- (4) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.
- (5) The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

Section 3. KRS 186A.530 is amended to read as follows:

- (1) The owner of a motor vehicle that meets the definition of a salvage vehicle as set forth in KRS 186A.520(1) and has been issued a salvage certificate of title in Kentucky, or the equivalent thereof by another licensing jurisdiction, and has been rebuilt, may make application for a new certificate of title pursuant to KRS 186.115. The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A governing the form of application.
- (2) Upon receipt of a salvage certificate of title issued pursuant to KRS 186A.520 or subsection (5) of this section, or similar title issued by another state, and proof of passing the inspection required by KRS 186A.115, the cabinet shall issue a new certificate of title with the words "rebuilt vehicle" printed on the face of the title. The brand shall be carried forward and printed in the appropriate section on the face of all titles issued thereafter for that motor vehicle.
- (3) If ownership of a motor vehicle has been transferred to an insurance company through payment of damages, the insurance

company making the payment of damages shall be deemed the owner of the vehicle.

- (4) The owner of a water damaged vehicle shall make application to the cabinet for a salvage certificate of title as provided for in KRS 186A.520. The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as water damaged or other similar designation who is making application for a Kentucky title shall be issued a title with the words "water damaged" printed on the face of the title.
- (5) A Kentucky salvage certificate of title may be issued from an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification with the following provisions:
 - (a) The out-of-state junking certificate of title or other ownership certificate shall be an original, secure document.
 - (b) The applicant shall submit a minimum of two (2) photographs of the motor vehicle showing the damage to the motor vehicle. The photographs shall be included in the application for a salvage certificate of title.
 - (c) The applicant shall submit a minimum of two (2) estimates of damage verifying that the condition of the vehicle which has been issued the junking certificate constitutes less than seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Auto Dealers' Association N.A.D.A. price guide.
- (6)
 - (a) When an insurance company makes a claim settlement on a vehicle that has been stolen and recovered, if the vehicle meets the definition of a salvage vehicle as set forth in KRS 186A.520, the company shall apply for a salvage certificate of title as provided for in KRS 186A.520. Upon receipt of this information, the cabinet shall issue the company a certificate of title to replace a salvage certificate of title. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A regarding the forms and any additional information which insurance companies shall be required to obtain and submit when seeking a certificate of title to replace a salvage certificate of title.
 - (b) In claim settlements that do not involve transfer of the vehicle to the insurance company, an insurer shall not render payment on a damage claim for a vehicle whose damage meets or exceeds seventy-five percent (75%) of the value of the vehicle, until the insurer has received proof that the owner has surrendered the title or has applied for a salvage certificate of title as set forth in KRS 186A.520. The owner shall apply for a salvage certificate of title within three (3) working days of the agreed settlement. **This subsection shall not apply to hail-damaged vehicles under Section 1 of this Act.**
 - (c) An insurance company shall not refuse coverage to, and shall not reclassify coverage of, a vehicle that has been issued a rebuilt title pursuant to the provisions of this section.
- (7) A motor vehicle owner or a motor vehicle dealer licensed in this state who offers for sale, trade, or transfer a motor vehicle which carries a title brand, as set forth in subsection (2) of this section, shall disclose the nature of the brand to any prospective buyer or transferee, prior to the sale, and according to the following:
 - (a) Dealer disclosure shall be located on the previous consumer-owner sticker provided for in KRS 190.080. The sticker notification shall appear in a color different from that of the previous consumer-owner sticker and shall be set apart from other information required by KRS 190.080. The sticker wording shall be printed in at least ten (10) point, bold face type, on a background of obviously different color, and shall include the following: "THIS IS A REBUILT VEHICLE." This disclosure information shall not appear on previous consumer-owner stickers for vehicles that do not have a branded title. Dealer disclosure shall also be located on a buyer's notification form to be approved by the Transportation Cabinet. The form shall inform the buyer that the vehicle is a rebuilt vehicle and may include any other information the cabinet deems necessary.
 - (b) Nondealer disclosure shall be made in accordance with the procedures provided for in KRS 186A.060. The Department of Vehicle Regulation shall ensure that disclosure information appears near the beginning of the application for title and informs the buyer that the vehicle is a rebuilt vehicle.
- (8) Failure of a dealer to procure the buyer's acknowledgment signature on the buyer's notification form or failure of any person other than a dealer to procure the buyer's acknowledgment signature on the vehicle transaction record form shall render the sale voidable at the election of the buyer. The election to render the sale voidable shall be limited to forty-five (45) days after issuance of the title. This provision shall not bar any other remedies otherwise available to the purchaser.
- (9) The notification provisions of this section shall not apply to motor vehicles more than ten (10) model years old.
- (10) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A, regarding the administration of the title branding procedure within ninety (90) days from July 15, 1994. The administrative regulations may include designation of additional brands which provide significant information to the owner.

The Committee Amendment No. 1 Title to **HB 443** is as follows:

On page 1, by amending the title to read as follows: "An Act relating to motor vehicle titles."

HB 488, AN ACT relating to the transportation of persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) The term "person" means any individual, firm, partnership, corporation, company, association or joint stock association, and includes any trustee, assignee, or personal representative thereof;
- (2) ***The term "cabinet" means the Kentucky Transportation Cabinet;***
- (3) The term "department" means the Department of Vehicle Regulation;
- ~~(4)(3)~~ The term "city" means a municipality incorporated under the laws of this state;
- ~~(5)(4)~~ The term "state" means the Commonwealth of Kentucky;
- ~~(6)(5)~~ The term "highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;
- ~~(7)(6)~~ The term "certificate" means a certificate of public convenience and necessity issued under this chapter to common carriers by motor vehicle and irregular route common carriers, a nonprofit bus certificate issued under this chapter authorizing operation thereunder, or a certificate of compliance;
- ~~(8)(7)~~ The term "permit" means a permit issued under this chapter to contract carriers by motor vehicle of persons and to persons engaging in the business of U-drive-it;
- ~~(9)(8)~~ The term "interstate commerce" means commerce between any place in a state and any place in another state;
- ~~(10)(9)~~ The term "intrastate commerce" means commerce between any place in this state and any other place in this state;
- ~~(11)(10)~~ The term "passenger" means an individual or group of people; and
- ~~(12)(11)~~ The term "property" means general or specific commodities including hazardous and nonhazardous materials.

Section 2. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1)
 - (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;
 - (b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;
 - (c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;
 - (d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;
 - (e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;
 - (f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;
- (2)
 - (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;
 - (b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;
 - (c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;
- (3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;

- (4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term; and
- (5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in KRS 211.950. It shall not mean a motor vehicle equipped with a stretcher;
- (b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles; ~~and~~
- (c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principle operation of which is confined to a specific county;
- (6) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:
- (a) Nonemergency medical transportation under KRS Chapter 205;
- (b) Mental health, mental retardation, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;
- (c) Kentucky Works Program under KRS Chapter 194 or 205;
- (d) Aging services under KRS Chapter 205, 209, 216, or 273;
- (e) Vocational rehabilitation under KRS 151B or 157; or
- (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- (7) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;
- (8) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;
- (9) "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority; and
- (10) "CTAC" means the Coordinated Transportation Advisory Committee created under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, and the Workforce Development Cabinet.
- (2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet, the Cabinet for Health Services, and the Cabinet for Families and Children shall each have two (2) votes and the Workforce Development Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.
- (3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

SECTION 4. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.
- (2) The program coordinator shall initially investigate all complaints regarding subcontractors and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.
- (3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is

actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be subject to his or her contract being revoked by the cabinet. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, and the Workforce Development Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.

- (4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, and the Workforce Development Cabinet strictly adhere to the provisions of 42 CFR governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing and the process to follow to obtain a hearing.
- (5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

SECTION 5. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section and Section 6 of this Act, unless the context otherwise requires:
- (a) "Certificate Type 01" means a private automobile;
 - (b) "Certificate Type 02" means a taxicab service;
 - (c) "Certificate Type 03" means a bus service;
 - (d) "Certificate Type 04" means a non-profit transit system;
 - (e) "Certificate Type 07" means a specialty carrier certified to transport nonemergency, ambulatory disoriented persons;
 - (f) "Certificate Type 08" means a specialty carrier, using lift-equipped vehicles in compliance with the Americans with Disabilities Act, certified to transport nonemergency, nonambulatory persons; and
 - (g) "Level of eligibility" means the specialty transport classification a person is designated based upon the written recommendation of the person's personal physician that is used to establish the type of specialty transport needed for the person.
- (2) Except for members of the general public, the level of eligibility shall dictate both the necessity and the type of special carrier transport for a person participating in the human service transportation delivery program and shall ensure the person shall be transported in the appropriate vehicle designed to accommodate the person's level of eligibility. The broker shall, upon request by a recipient, provide specialty carrier transportation for a period up to thirty (30) days without written recommendation of the recipient's personal physician. A broker shall be prohibited from changing or altering a person's level of eligibility and the accompanying certificate type. A broker shall report questionable specialty classifications to the cabinet.

SECTION 6. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) Persons participating in the human service transportation delivery program that have a level of eligibility that dictates they be transported under a Certificate Type 07 or 08 shall be ensured the freedom of personal choice in selecting either an eligible subcontractor within the delivery area, or the broker for the area if the broker also provides transportation services, to provide the person's transportation services.
- (2) A person expressing a personal preference under subsection (1) of this section shall contact the broker to arrange transportation services, even if the person is requesting an eligible subcontractor to provide the service. If a person does not express a preference of whom they wish to transport them under subsection (1) of this section, the broker shall determine the eligible subcontractor to provide the service. The broker may select himself or herself if the broker also provides transportation services, however, the broker shall establish a system that fairly and equitably distributes requests for transportation services in the delivery area among the broker and all subcontractors certified to transport Certificate Type 07 or Certificate Type 08.

SECTION 7. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall promulgate administrative regulations governing, but not limited to, the following provisions of the

human service transportation delivery program:

- (a) Establishment of one (1) or more specific delivery areas;
 - (b) The length of the term of the contract to be signed with a broker and the criteria to be used to terminate a contract;
 - (c) Contractual matters to be specified in a request for proposals from brokers including, but not limited to:
 - 1. Establishment and maintenance of a central business office within the delivery area;
 - 2. Staffing requirements for the central business office;
 - 3. Collection and retention of records to be maintained by each broker and subcontractor;
 - 4. Collection and retention of encounter data on each trip made by the broker if the broker provides transportation services and by each subcontractor. Failure of a broker to record all data required by the cabinet for all trips the broker provided under the human service transportation delivery program shall be grounds for the cabinet to terminate the broker's contract;
 - 5. Reporting of all traffic accidents and moving violations involving either a broker or subcontractor; and
 - 6. Submission of annual financial reports by each broker;
 - (d) Criteria for evaluating and selecting a broker subject to the provisions of subsections (2) and (3) of this section;
 - (e) Identification of all federal statutes, federal rules, and federal administrative regulations with which state agencies, brokers, and subcontractors must comply;
 - (f) Uniform criteria for establishing capitated rates, fees, and reimbursement procedures for all delivery areas, including a mandate that brokers shall promptly reimburse subcontractors on the fifteenth of each month;
 - (g) Uniform responsibilities for all brokers and subcontractors including provisions for reservations and trip assignments, quality assurance, administrative oversight, and reporting;
 - (h) Uniform criteria for contractual agreements between subcontractors and brokers in all delivery areas;
 - (i) Uniform criteria governing the authorized provision of transportation services offered by brokers in all delivery areas;
 - (j) Uniform guidelines brokers shall be required to adopt to educate persons in the delivery area regarding:
 - 1. Procedures for scheduling transportation services including the broker's normal hours of operation and how to schedule transportation after normal hours of operation, including Sundays and all holidays;
 - 2. Rates for services;
 - 3. Information the person shall be required to provide the broker when requesting transportation;
 - 4. Types of eligible transportation, including pick-up and delivery standards and reasons service may be denied;
 - 5. Permissibility of escorts and attendants;
 - 6. Procedures governing requests for urgent care;
 - 7. Standards for driver conduct;
 - 8. Standards for passenger conduct; and
 - 9. Oral and written instructions governing the complaint process and how to lodge a complaint against a subcontractor or broker;
 - (k) Vehicle requirements governing all vehicles operated by brokers or subcontractors to transport persons under the human service transportation delivery program;
 - (l) Driver qualifications including driver, attendant, and service personnel training;
 - (m) Minimum standards to be included in a mandatory orientation program provided by the broker for all subcontractors in the delivery area;
 - (n) Minimum standards governing volunteer and public transportation services;
 - (o) Minimum standards governing an operational procedures manual to be developed by all brokers;
 - (p) Minimum standards governing a quality assurance plan to be developed by all brokers;
 - (q) Performance monitoring by the cabinet of brokers and subcontractors; and
 - (r) Standards governing uniform software that all brokers shall be required to use to ensure the uniform collection of data and to facilitate the production and analysis of uniform reports relating to the human service transportation delivery system.
- (2) A person that submits a request for proposal to be a broker under the human service transportation delivery program shall be required to submit documentation that he or she has at least one (1) year experience working with persons with

special needs.

- (3) The cabinet shall be prohibited from awarding higher scores, or giving any type of preferential treatment to, any person that submits a request for proposal to be a broker who is also a transportation provider over a person who submits a request to be a broker but who is not a transportation provider.
- (4) The cabinet shall develop a handbook specifying standard operating procedures, which shall be distributed to all providers and shall be made available to the general public.

SECTION 8. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall require and shall ensure that all brokers shall permit a person to request and receive human service transportation with less than the time notice established by administrative regulation for scheduling transportation services if the person's physician submits verification to the broker that the person needs to be seen by the physician or another physician to whom the person is being referred for medical treatment.
- (2) The physician verification required under subsection (1) of this section may be transmitted in any of the following methods:
- (a) Oral verification over the telephone;
- (b) Written verification transmitted electronically by computer or by facsimile; or
- (c) Written verification delivered by the person directly to the broker or subcontractor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

A broker or subcontractor who is determined by the cabinet to have violated the provisions of Section 4, 5, 6, 7, or 8 of this Act, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

A broker may coordinate the human service transportation delivery program with general public transportation as provided in this chapter and KRS Chapter 96A.

Section 11. KRS 96A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following words or terms shall mean as follows:

- (1) "City" means any incorporated city in the Commonwealth;
- (2) "County" means any county in the Commonwealth wherein there is located an incorporated city and for the purpose of this chapter shall also mean a county which has adopted an urban-county government;
- (3) "State" means the Commonwealth;
- (4) "Transit authority" or "authority" means a transit authority created pursuant to this chapter;
- (5) "Board" means the board of a transit authority;
- (6) "Public body" means any city or county of the Commonwealth;
- (7) "Governing body" means, as to a county, the fiscal court thereof; and as to a city, the legislative body thereof, howsoever the same may be denominated according to law;
- (8) "Proceedings" means, in the case of a county, a resolution of its fiscal court; and in the case of a city, an ordinance adopted and made effective according to law by its governing body;
- (9) "Joint proceedings" relates only to the establishment of a transit authority by two (2) or more public bodies acting in concert or by agreement, and means the proceedings, taken collectively, by the governing bodies of the public bodies, participating in the creation and establishment of a transit authority;
- (10) "Appointing authority" means, as to a county, the county judge/executive thereof; and as to any city, the elected chief officer thereof, whether designated as its mayor or the chairman of its board of trustees or otherwise;
- (11) "Area" or "transit area" means the geographical area which may be encompassed from time to time within the lawful boundaries of such cities and counties as may be involved in the creation and establishment of an authority; and of any cities or counties within any single unified metropolitan area which may subsequently become participants as provided in this chapter;
- (12) "Mass transit," or "mass transportation," means the transportation of persons and their baggage within or without a transit area, but shall not include the for-hire operation of a taxicab, or industrial bus as defined by KRS Chapter 281;
- (13) "Human service transportation delivery" means the same as defined in Section 2 of this Act; ~~provision of transportation for an eligible recipient in one of the following state programs:~~
- (a) ~~Nonemergency medical transportation under KRS Chapter 205;~~
- (b) ~~Mental health, mental retardation, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;~~

- ~~(c) Kentucky Works Program under KRS Chapter 194 or 205;~~
- ~~(d) Aging services under KRS Chapter 205, 209, 216, or 273;~~
- ~~(e) Vocational rehabilitation under KRS 151B or 157; or~~
- ~~(f) Blind industries or rehabilitation under KRS Chapter 151B or 163; and~~

(14) ***"Delivery area" means the same as defined in Section 2 of this Act; and***~~["Human service transportation delivery area" means one (1) of the regions established by the Transportation Cabinet for the purpose of providing human service transportation delivery in that region]~~

(15) ***"Broker" means the same as defined in Section 2 of this Act.***

Section 12. KRS 96A.095 is amended to read as follows:

- (1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Families and Children, the Cabinet for Health Services, and the Cabinet for Workforce Development, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:
 - (a) A local transit authority as created under this chapter;
 - (b) A city;
 - (c) A county;
 - (d) Other public mass transit providers;
 - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
 - (f) An entity providing human service transportation delivery.
- (2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:
 - (a) A local transit authority as created under this chapter;
 - (b) A city;
 - (c) A county;
 - (d) Other public mass transit providers;
 - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
 - (f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

- (3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing~~[such]~~ assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.
- (4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS ~~Chapters~~***Chapter*** 45A ~~and 281~~, with a~~[transportation provider or]~~ broker to provide human ~~service~~***services*** transportation delivery within a specific~~[human service transportation]~~ delivery area.
- ~~((5) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section. The administrative regulations shall include, but not be limited to, the following:~~
 - ~~(a) Establishment of the human service transportation delivery areas, including the counties in each area;~~
 - ~~(b) Safety and other physical operating requirements for all mass transit operations and human service transportation deliveries;~~
 - ~~(c) The minimum conditions and requirements of a subcontract between the Transportation Cabinet's human service transportation provider or broker contractor and an entity providing the means of the human services transportation;~~
 - ~~(d) Compliance with the requirements of the United States Federal Transit Administration; and~~

- ~~(e) A mechanism for ensuring that each human services transportation provider contractor or subcontractor:~~
- ~~1. Has appropriate operating authority issued under KRS Chapter 281;~~
 - ~~2. Is a transit authority operating under the provisions of KRS Chapter 96A; or~~
 - ~~3. Has been approved by the Transportation Cabinet to operate under the provisions of 49 U.S.C. sec. 5310 or 5311.~~

~~(6) All willing providers or entities who meet the applicable requirements of subsection (5) of this section shall be provided by the broker with an application for enrollment as a subcontractor for the human service transportation delivery programs.]~~

Section 13. The Transportation Cabinet shall conduct a study of the formulas used to calculate capitated rates by delivery area. The cabinet shall also review rate information collected from brokers and subcontractors since the inception of the human service transportation delivery program, as well as capitated rate need requests brokers have submitted to the cabinet. The cabinet shall report its findings to the Interim Joint Committee on Transportation through the Legislative Research Commission no later than July 1, 2001. The findings of the study shall be used to statutorily create a capitated rate formula governing the human service transportation delivery program.

Section 14. All current contracts between the cabinet and each broker may remain in force until the contractual expiration date except as provided in this section. All current contracts between the cabinet and each broker shall expire not later than July 1, 2001. The cabinet shall execute new contracts with all brokers for all delivery areas under the provisions of this Act not later than July 1, 2001.

Section 15. The provisions of subsections (1), (2), and (3) of Section 7 of this Act shall be promulgated into administrative regulations under KRS Chapter 13A not later than thirty (30) days after the effective date of this Act. The provisions of subsection (4) of Section 7 of this Act shall become effective March 1, 2001.

The Committee Substitute No. 1 to **HB 488** is as follows:

HB 488, AN ACT relating to the transportation of persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) The term "person" means any individual, firm, partnership, corporation, company, association or joint stock association, and includes any trustee, assignee, or personal representative thereof;
- (2) ***The term "cabinet" means the Kentucky Transportation Cabinet;***
- (3) The term "department" means the Department of Vehicle Regulation;
- ~~(4)(3)~~ The term "city" means a municipality incorporated under the laws of this state;
- ~~(5)(4)~~ The term "state" means the Commonwealth of Kentucky;
- ~~(6)(5)~~ The term "highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;
- ~~(7)(6)~~ The term "certificate" means a certificate of public convenience and necessity issued under this chapter to common carriers by motor vehicle and irregular route common carriers, a nonprofit bus certificate issued under this chapter authorizing operation thereunder, or a certificate of compliance;
- ~~(8)(7)~~ The term "permit" means a permit issued under this chapter to contract carriers by motor vehicle of persons and to persons engaging in the business of U-drive-it;
- ~~(9)(8)~~ The term "interstate commerce" means commerce between any place in a state and any place in another state;
- ~~(10)(9)~~ The term "intrastate commerce" means commerce between any place in this state and any other place in this state;
- ~~(11)(10)~~ The term "passenger" means an individual or group of people; and
- ~~(12)(11)~~ The term "property" means general or specific commodities including hazardous and nonhazardous materials.

Section 2. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;

- (b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;
- (c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;
- (d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;
- (e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;
- (f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;
- (2) (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;
- (b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;
- (c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;
- (3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;
- (4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term ; and
- (5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in KRS 211.950. It shall not mean a motor vehicle equipped with a stretcher;
- (b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles;~~and~~
- (c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principle operation of which is confined to a specific county;
- (6) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:
 - (a) Nonemergency medical transportation under KRS Chapter 205;
 - (b) Mental health, mental retardation, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;
 - (c) Kentucky Works Program under KRS Chapter 194 or 205;
 - (d) Aging services under KRS Chapter 205, 209, 216, or 273;
 - (e) Vocational rehabilitation under KRS 151B or 157; or
 - (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- (7) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;
- (8) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;
- (9) "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority; and
- (10) "CTAC" means the Coordinated Transportation Advisory Committee created under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, and the Workforce Development Cabinet.
- (2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet, the Cabinet for Health Services, and the Cabinet for Families and Children shall each have two (2) votes and the Workforce Development Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.
- (3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

SECTION 4. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.
- (2) The program coordinator shall initially investigate all complaints regarding subcontractors and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.
- (3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be fined one thousand dollars (\$1,000) and shall be subject to his or her contract being revoked by the cabinet. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, and the Workforce Development Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.
- (4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, and the Workforce Development Cabinet strictly adhere to the provisions of 42 CFR governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.
- (5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

SECTION 5. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section and Section 6 of this Act, unless the context otherwise requires:
 - (a) "Certificate Type 01" means a private automobile;
 - (b) "Certificate Type 02" means a taxicab service;
 - (c) "Certificate Type 03" means a bus service;
 - (d) "Certificate Type 04" means a non-profit transit system;
 - (e) "Certificate Type 07" means a specialty carrier certified to transport nonemergency, ambulatory disoriented persons;
 - (f) "Certificate Type 08" means a specialty carrier, using lift-equipped vehicles in compliance with the Americans

with Disabilities Act, certified to transport nonemergency, nonambulatory persons; and

(g) "Level of eligibility" means the specialty transport classification a person is designated based upon the written recommendation of the person's personal physician that is used to establish the type of specialty transport needed for the person.

(2) Except for members of the general public, the level of eligibility shall dictate both the necessity and the type of special carrier transport for a person participating in the human service transportation delivery program and shall ensure the person shall be transported in the appropriate vehicle designed to accommodate the person's level of eligibility. The broker shall, upon request by a recipient, provide specialty carrier transportation for a period up to thirty (30) days without written recommendation of the recipient's personal physician. A broker shall be prohibited from changing or altering a person's level of eligibility and the accompanying certificate type. A broker shall report questionable specialty classifications to the cabinet.

SECTION 6. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) Persons participating in the human service transportation delivery program that have a level of eligibility that dictates they be transported under a Certificate Type 07 or 08 shall be ensured the freedom of personal choice in selecting either an eligible subcontractor within the delivery area, or the broker for the area if the broker also provides transportation services, to provide the person's transportation services.

(2) A person expressing a personal preference under subsection (1) of this section shall contact the broker to arrange transportation services, even if the person is requesting an eligible subcontractor to provide the service. If a person does not express a preference of whom they wish to transport them under subsection (1) of this section, the broker shall determine the eligible subcontractor to provide the service. The broker may select himself or herself if the broker also provides transportation services, however, the broker shall establish a system that fairly and equitably distributes requests for transportation services in the delivery area among the broker and all subcontractors certified to transport Certificate Type 07 or Certificate Type 08.

(3) All brokers shall consider their ability to allow persons with an eligibility level that dictates they be transported under a Certificate Type 02 to request the freedom of personal choice in the selection of who will provide the person's transportation services. A broker may offer freedom of choice to persons with a Certificate Type 02.

SECTION 7. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall promulgate administrative regulations governing, but not limited to, the following provisions of the human service transportation delivery program:

(a) Establishment of one (1) or more specific delivery areas;

(b) The length of the term of the contract to be signed with a broker and the criteria to be used to terminate a contract;

(c) Contractual matters to be specified in a request for proposals from brokers including, but not limited to:

1. Establishment and maintenance of a central business office within the delivery area;

2. Staffing requirements for the central business office; -

3. Collection and retention of records to be maintained by each broker and subcontractor;

4. Collection and retention of encounter data on each trip made by the broker if the broker provides transportation services and by each subcontractor. Failure of a broker to record all data required by the cabinet for all trips the broker provided under the human service transportation delivery program shall be grounds for the cabinet to terminate the broker's contract;

5. Reporting of all traffic accidents and moving violations involving either a broker or subcontractor; and

6. Submission of annual financial reports by each broker;

(d) Criteria for evaluating and selecting a broker subject to the provisions of subsections (2) and (3) of this section;

(e) Identification of all federal statutes, federal rules, and federal administrative regulations with which state agencies, brokers, and subcontractors must comply;

(f) Uniform criteria for establishing capitated rates, fees, and reimbursement procedures for all delivery areas, including a mandate that brokers shall promptly reimburse subcontractors on the fifteenth of each month;

(g) Uniform responsibilities for all brokers and subcontractors including provisions for reservations and trip assignments, quality assurance, administrative oversight, and reporting;

(h) Uniform criteria for contractual agreements between subcontractors and brokers in all delivery areas;

(i) Uniform criteria governing the authorized provision of transportation services offered by brokers in all delivery areas;

(j) Uniform guidelines brokers shall be required to adopt to educate persons in the delivery area regarding:

1. Procedures for scheduling transportation services including the broker's normal hours of operation and

how to schedule transportation after normal hours of operation, including Sundays and all holidays;

2. Rates for services;
3. Information the person shall be required to provide the broker when requesting transportation;
4. Types of eligible transportation, including pick-up and delivery standards and reasons service may be denied;
5. Permissibility of escorts and attendants;
6. Procedures governing requests for urgent care;
7. Standards for driver conduct;
8. Standards for passenger conduct; and
9. Oral and written instructions governing the complaint process and how to lodge a complaint against a subcontractor or broker;

(k) Vehicle requirements governing all vehicles operated by brokers or subcontractors to transport persons under the human service transportation delivery program;

(l) Driver qualifications including driver, attendant, and service personnel training;

(m) Minimum standards to be included in a mandatory orientation program provided by the broker for all subcontractors in the delivery area;

(n) Minimum standards governing volunteer and public transportation services;

(o) Minimum standards governing an operational procedures manual to be developed by all brokers;

(p) Minimum standards governing a quality assurance plan to be developed by all brokers;

(q) Performance monitoring by the cabinet of brokers and subcontractors; and

(r) Standards governing uniform software that all brokers shall be required to use to ensure the uniform collection of data and to facilitate the production and analysis of uniform reports relating to the human service transportation delivery system.

(2) A person that submits a request for proposal to be a broker under the human service transportation delivery program shall be required to submit documentation that he or she has at least one (1) year experience working with persons with special needs.

(3) The cabinet shall be prohibited from awarding higher scores, or giving any type of preferential treatment to, any person that submits a request for proposal to be a broker who is also a transportation provider over a person who submits a request to be a broker but who is not a transportation provider.

(4) The cabinet shall develop a handbook specifying standard operating procedures, which shall be distributed to all providers and shall be made available to the general public.

SECTION 8. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require and shall ensure that all brokers shall permit a person to request and receive human service transportation with less than the time notice established by administrative regulation for scheduling transportation services if the person's physician submits verification to the broker that the person needs to be seen by the physician or another physician to whom the person is being referred for medical treatment. A broker who violates the provisions of this subsection shall be fined one thousand dollars (\$1,000) and shall be subject to his or her contract being revoked by the cabinet.

(2) The physician verification required under subsection (1) of this section may be transmitted in any of the following methods:

(a) Oral verification over the telephone;

(b) Written verification transmitted electronically by computer or by facsimile; or

(c) Written verification delivered by the person directly to the broker or subcontractor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

A broker or subcontractor who is determined by the cabinet to have violated the provisions of Section 4, 5, 6, 7, 8, or 11 of this Act, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

A broker may coordinate the human service transportation delivery program with general public transportation as provided in this chapter and KRS Chapter 96A.

SECTION 11. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

A broker shall be prohibited from imposing any requirement on any subcontractor that is not provided for in this chapter, or in an administrative regulation promulgated under KRS Chapter 13A to carry out the provisions of the human service transportation delivery program.

Section 12. KRS 96A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following words or terms shall mean as follows:

- (1) "City" means any incorporated city in the Commonwealth;
- (2) "County" means any county in the Commonwealth wherein there is located an incorporated city and for the purpose of this chapter shall also mean a county which has adopted an urban-county government;
- (3) "State" means the Commonwealth;
- (4) "Transit authority" or "authority" means a transit authority created pursuant to this chapter;
- (5) "Board" means the board of a transit authority;
- (6) "Public body" means any city or county of the Commonwealth;
- (7) "Governing body" means, as to a county, the fiscal court thereof; and as to a city, the legislative body thereof, howsoever the same may be denominated according to law;
- (8) "Proceedings" means, in the case of a county, a resolution of its fiscal court; and in the case of a city, an ordinance adopted and made effective according to law by its governing body;
- (9) "Joint proceedings" relates only to the establishment of a transit authority by two (2) or more public bodies acting in concert or by agreement, and means the proceedings, taken collectively, by the governing bodies of the public bodies, participating in the creation and establishment of a transit authority;
- (10) "Appointing authority" means, as to a county, the county judge/executive thereof; and as to any city, the elected chief officer thereof, whether designated as its mayor or the chairman of its board of trustees or otherwise;
- (11) "Area" or "transit area" means the geographical area which may be encompassed from time to time within the lawful boundaries of such cities and counties as may be involved in the creation and establishment of an authority; and of any cities or counties within any single unified metropolitan area which may subsequently become participants as provided in this chapter;
- (12) "Mass transit," or "mass transportation," means the transportation of persons and their baggage within or without a transit area, but shall not include the for-hire operation of a taxicab, or industrial bus as defined by KRS Chapter 281;
- (13) "Human service transportation delivery" means ~~the same as defined in Section 2 of this Act; [provision of transportation for an eligible recipient in one of the following state programs:~~
 - (a) ~~Nonemergency medical transportation under KRS Chapter 205;~~
 - (b) ~~Mental health, mental retardation, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;~~
 - (c) ~~Kentucky Works Program under KRS Chapter 194 or 205;~~
 - (d) ~~Aging services under KRS Chapter 205, 209, 216, or 273;~~
 - (e) ~~Vocational rehabilitation under KRS 151B or 157; or~~
 - (f) ~~Blind industries or rehabilitation under KRS Chapter 151B or 163; and]~~
- (14) ~~"Delivery area" means the same as defined in Section 2 of this Act; and ["Human service transportation delivery area" means one (1) of the regions established by the Transportation Cabinet for the purpose of providing human service transportation delivery in that region]~~
- (15) **"Broker" means the same as defined in Section 2 of this Act.**

Section 13. KRS 96A.095 is amended to read as follows:

- (1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Families and Children, the Cabinet for Health Services, and the Cabinet for Workforce Development, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:
 - (a) A local transit authority as created under this chapter;
 - (b) A city;
 - (c) A county;
 - (d) Other public mass transit providers;

- (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
 - (f) An entity providing human service transportation delivery.
- (2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:
- (a) A local transit authority as created under this chapter;
 - (b) A city;
 - (c) A county;
 - (d) Other public mass transit providers;
 - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
 - (f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

- (3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing ~~such~~ assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.
- (4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS ~~Chapters~~ Chapter 45A and 281, with a ~~transportation provider or~~ broker to provide human service ~~services~~ transportation delivery within a specific ~~human service transportation~~ delivery area.

~~[(5) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section. The administrative regulations shall include, but not be limited to, the following:~~

- ~~(a) Establishment of the human service transportation delivery areas, including the counties in each area;~~
- ~~(b) Safety and other physical operating requirements for all mass transit operations and human service transportation deliveries;~~
- ~~(c) The minimum conditions and requirements of a subcontract between the Transportation Cabinet's human service transportation provider or broker contractor and an entity providing the means of the human services transportation;~~
- ~~(d) Compliance with the requirements of the United States Federal Transit Administration; and~~
- ~~(e) A mechanism for ensuring that each human services transportation provider contractor or subcontractor:~~
 - ~~1. Has appropriate operating authority issued under KRS Chapter 281;~~
 - ~~2. Is a transit authority operating under the provisions of KRS Chapter 96A; or~~
 - ~~3. Has been approved by the Transportation Cabinet to operate under the provisions of 49 U.S.C. sec. 5310 or 5311.~~

~~(6) All willing providers or entities who meet the applicable requirements of subsection (5) of this section shall be provided by the broker with an application for enrollment as a subcontractor for the human service transportation delivery programs.]~~

Section 14. The Transportation Cabinet shall conduct a study of the formulas used to calculate capitated rates by delivery area. The cabinet shall also review rate information collected from brokers and subcontractors since the inception of the human service transportation delivery program, as well as capitated rate need requests brokers have submitted to the cabinet. The cabinet shall report its findings to the Interim Joint Committee on Transportation through the Legislative Research Commission no later than July 1, 2001. The findings of the study shall be used to statutorily create a capitated rate formula governing the human service transportation delivery program.

Section 15. All current contracts between the cabinet and each broker may remain in force until the contractual expiration date except as provided in this section. All current contracts between the cabinet and each broker shall expire not later than July 1, 2001. The cabinet shall execute new contracts with all brokers for all delivery areas under the provisions of this Act not later than July 1, 2001.

Section 16. The provisions of subsections (1), (2), and (3) of Section 7 of this Act shall be promulgated into administrative regulations under KRS Chapter 13A not later than thirty (30) days after the effective date of this Act. The provisions of subsection (4) of Section 7 of this Act shall become effective March 1, 2001.

HB 542, AN ACT relating to motor vehicle licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines, and U-Drive-Its, may in addition to registration under KRS 186.050(1) or (3)(a) obtain a five (5) year Kentucky Law Enforcement Memorial license plate. Application for a Kentucky Law Enforcement Memorial license plate shall be taken to the county clerk and transmitted to the Transportation Cabinet on or before September 1 preceding the year in which the license plate or renewal thereof is to be issued. The application shall include payment of a fifty dollar (\$50) registration fee. In addition, at the time of the application, and with each subsequent annual renewal, a ten dollar (\$10) fee shall be collected and paid to the Kentucky Law Enforcement Memorial Foundation, Inc., with the funds to be used for the erection and maintenance of a memorial for Kentucky peace officers killed in the line of duty, and for charitable and educational purposes. The application and fee shall be immediately forwarded to the cabinet.
- (2) The Kentucky Law Enforcement Memorial Foundation, Inc., shall develop and submit a design for a Kentucky Law Enforcement Memorial license plate to the cabinet for approval. In addition to suitable language and images identifying the plate as honoring Kentucky peace officers killed in the line of duty, the name "Kentucky", and the expiration date of the plate, the cabinet may use any other combination of letters or numerals needed in the design of the plate, or the application for the Kentucky Law Enforcement Memorial license plate may be combined with a request that the plate be a personalized plate. The cabinet shall receive a minimum of five hundred (500) applications before it shall be required to print the license plate.
- (3) The cabinet shall send the Kentucky Law Enforcement Memorial license plate to the county clerk in the county in which the applicant is required to register the applicant's motor vehicle. The clerk shall issue the Kentucky Law Enforcement Memorial license plate and receive fifteen dollars (\$15), of which three dollars (\$3) shall constitute the clerk's fee and twelve dollars (\$12) shall constitute the cabinet's fee which includes the fifty cents (\$0.50) fee to reflectorize the plate under KRS 186.240(2)(c). Annually thereafter during the applicant's birth month, the clerk shall issue a decal to renew the vehicle's registration upon application as provided in subsection (1) of this section, and upon payment of twenty-five dollars (\$25), three dollars (\$3) of which shall constitute the clerk's fee, twelve dollars (\$12) shall constitute the cabinet's fee which includes the fifty cents (\$0.50) fee to reflectorize the plate under KRS 186.240(2)(c), and ten dollars (\$10) shall be paid to the Kentucky Law Enforcement Memorial Foundation, Inc. under subsection (1) of this section.
- (4) (a) Upon the sale, transfer, or termination of a lease of a vehicle bearing the Kentucky Law Enforcement Memorial license plate, the owner or lessee shall remove the plate and return it and the certificate of title and registration to the county clerk. The county clerk shall issue a regular license plate and certificate of title and registration upon payment of a twelve dollar (\$12) fee to the cabinet which includes the fifty cents (\$0.50) fee to reflectorize the plate under KRS 186.240(2)(c), and payment of a three dollar (\$3) fee to the county clerk.

(b) When the plate has been presented to the county clerk, the clerk shall reissue it upon payment to the clerk of a two dollar (\$2) fee, for use on any other vehicle of the same classification and category owned by the same person purchasing the plate for the current licensing period. The license plate and decal on the other vehicle shall be turned into the county clerk, who shall forward the license plate to the cabinet.
- (5) If the Kentucky Law Enforcement Memorial license plate deteriorates, and if the person has not transferred the vehicle during the current licensing period, the person may obtain a regular license plate free of charge.

HJR 78, A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on Kentucky Route 168 in Boyd County over the Little Hoods Creek in honor of W. Richard "Dick" Martin.

WHEREAS, W. Richard "Dick" Martin is well known throughout the Ashland and Boyd County communities for his lifelong commitment to radio; and

WHEREAS, W. Richard "Dick" Martin began his broadcasting career in 1946 with WCMI, the first AM radio station to serve Ashland, as well as all of the communities of northeastern Kentucky; and

WHEREAS, W. Richard "Dick" Martin worked not only as a sports broadcaster as the voice of the Ashland Tomcats from 1947 until 1975, but he also served as program director, general manager, and Vice President of WCMI; and

WHEREAS, in 1969 W. Richard "Dick" Martin brought the first FM radio station to the Ashland area; and

WHEREAS, W. Richard "Dick" Martin was instrumental in the formation of the Eastern Kentucky Economic Development Corporation in 1985; and

WHEREAS, W. Richard "Dick" Martin was a dedicated public servant who served as the Mayor of the City of Ashland from 1988 until 1991; and

WHEREAS, during his tenure as mayor, W. Richard "Dick" Martin helped the City of Ashland achieve the prestigious

designation of "All Kentucky City"; and

WHEREAS, W. Richard "Dick" Martin has been active in civic, community, and religious organizations for over forty (40) years;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name bridge number B00055 on Kentucky Route 168 in Boyd County located over Little Hoods Creek at the northwest city limits of the City of Ashland in honor of W. Richard "Dick" Martin.

Section 2. The Transportation Cabinet shall erect signs at each end of the bridge approach on Kentucky Route 168 naming the bridge the " W. Richard "Dick" Martin Bridge" within thirty (30) days of the effective date of this Resolution.

SJR 17, A JOINT RESOLUTION directing the Transportation Cabinet to rename the Cumberland Parkway in honor of Louie B. Nunn.

WHEREAS, Louie Nunn was born on March 8, 1924, in the town of Park, in Barren County, Kentucky, the fourth son of Walter H. and Mary Roberts Nunn; and

WHEREAS, Louie Nunn served his country as an infantryman from 1943 to 1945 at the height of World War II; and

WHEREAS, Louie Nunn received a law degree from the University of Louisville in 1950; and

WHEREAS, Louie Nunn was very active in civic affairs, evidenced by his serving as chairman of the Board of Elders and Deacons of the First Christian Church of Glasgow and director of the Glasgow Little League, and by his memberships in the Rotary Club, the Chamber of Commerce, the American Legion, and the Jaycees; and

WHEREAS, Louie Nunn's long history of public service began with his election as Barren County Judge in 1953, and continued with his service as city attorney for Glasgow; and

WHEREAS, Louie Nunn served as Governor of the Commonwealth from 1967 to 1971; and

WHEREAS, Louie Nunn's tenure as Governor was highlighted by increased support for economic development programs, mental health services, the establishment of the Kentucky Educational Television System, and expansion of state parks; and

WHEREAS, Louie Nunn was instrumental in increasing budgets for education at the primary, secondary, and post secondary levels, and his administration helped further higher education in the Commonwealth, by bringing the University of Louisville into the state system and by transforming a community college into what is now Northern Kentucky University; and

WHEREAS, Louie Nunn has continued to be an active force in the political and civic life of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to rename the Cumberland Parkway the "Louie B. Nunn Parkway".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Louie B. Nunn Parkway" to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet.

The Committee on Natural Resources and Environment reported **HB 616** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 616, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.620 is amended to read as follows:

- (1) Notwithstanding KRS 353.610, if an application is submitted for a permit to drill, deepen, or reopen a well closer to a boundary or to another well than prescribed in KRS 353.610 and the application is accompanied by the written consent of all owners of oil and gas interests in any premises which will be offset by the proposed well, the department shall issue a permit for the well.
- (2) Notwithstanding KRS 353.610, the department may issue a permit for a well to be drilled, deepened, or reopened closer to a boundary or another well than prescribed in KRS 353.610, if the director, after notice and hearing, finds that topographical or other conditions are such as to make compliance with the requirements of KRS 353.610 unduly burdensome or in conflict with reasonably prudent methods and practices for the production of oil or gas.
- (3) Notwithstanding KRS 353.610, the department shall issue a permit for a well to be drilled, deepened, or reopened closer to a boundary than prescribed in KRS 353.610 if a pooling order has been issued pursuant to Section 2 of this Act.
- (4) If a permit is issued to drill, deepen, or reopen a well under subsection (1) or (2) of this section at a location closer to a

well or boundary than prescribed in KRS 353.610, the department shall permit a like variance from the requirements of KRS 353.610 on all premises offset and adversely affected by the well.

Section 2. KRS 353.630 is amended to read as follows:

- (1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened or reopened by reason of the spacing provisions of KRS 353.610, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The department shall require the development and operation of all pooled ~~acreage~~tracts as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.
- (2) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (3) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (4) No pooling as permitted by this section shall be ordered except:
 - (a) When~~After~~ an application has been filed to drill, deepen or reopen a well within the distance limitations prescribed in KRS 353.610~~for the production of oil upon the tract or within four hundred (400) feet of the tract, or after an application for a permit to drill, deepen or reopen a well for the production of gas upon the tract or within one thousand (1,000) feet of the tract has been submitted~~; and
 - (b) When~~After~~ a lessee or owner of an oil or gas interest in the tract shall request the pooling.
- ~~(5)~~~~(3)~~ No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened or reopened:
 - (a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract pursuant to subsection (1), (2), or (3) of this section~~which does not contain a location at which a well for oil or gas may be drilled, deepened or reopened~~; and
 - (b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.
- ~~(6)~~~~(4)~~ Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

Section 3. KRS 353.640 is amended to read as follows:

- (1) A pooling order shall be made only after notice to all persons owning an oil or gas interest in any tract, or portion thereof, proposed to be pooled with another tract, and after a hearing.
- (2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

- (3) Upon request a pooling order shall provide one (1) or more just and equitable alternatives whereby, an owner of an operating interest, who does not elect to participate in the risk and cost of the drilling, deepening or reopening of a well:
 - (a) May elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the director; or
 - (b) May elect to participate in the drilling, deepening or reopening of the well on a limited or carried basis upon terms and conditions determined by the director to be just and reasonable.
- (4) A certified copy of any pooling order entered under KRS 353.500 to 353.720 shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

The Committee on Licensing and Occupations reported **HB 327**, with Committee Amendment attached thereto, **HB 554**, **HB 625**, and **SB 39** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 327, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
 - (a) Bingo in which the gross receipts do not exceed a total of twenty-five~~fifteen~~ thousand dollars ~~(\$25,000)~~~~(\$15,000)~~ per year;
 - (b) A raffle or raffles for which the gross receipts do not exceed twenty-five~~fifteen~~ thousand dollars ~~(\$25,000)~~~~(\$15,000)~~ per year; and
 - (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five~~fifteen~~ thousand dollars ~~(\$25,000)~~~~(\$15,000)~~ per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five~~fifteen~~ thousand dollars ~~(\$25,000)~~~~(\$15,000)~~.

- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the division in writing, on a simple form issued by the division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:
 - (a) Payment of the fee imposed under the provisions of KRS 238.570; and
 - (b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.
- (3) If an organization exceeds the limit imposed by any subsection of this section it shall:
 - (a) Report the amount to the division; and
 - (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the division shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (6) If the division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.
- (8) In order to qualify for licensure, a charitable organization shall:
 - (a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of

those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;
 - (b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;
 - (c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the division, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and
 - (d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the division; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.
- (9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:
- (a) The name and address of the charitable organization;
 - (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;
 - (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
 - (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;
 - (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;
 - (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
 - (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
 - (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;
 - (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
 - (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;
 - (k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the division; and
 - (l) Any other information the division deems appropriate.
- (10) The division may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- (11) The division shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

The Committee Amendment No. 1 to **HB 327** is as follows:

On page 1, line 3, after the word "the", by inserting "department" and by placing brackets around and striking through the word "division";

On page 1, line 17, after the word "the", by inserting "department" and by placing brackets around and striking through the word "division";

On page 1, line 18, after the first occurrence of "the", by inserting the word "department" and by placing brackets around and striking through the word "division";

On page 1, line 24, after the first occurrence of the word "the", by inserting the word "quarterly"; and

On page 2, after line 1 and before line 2, by inserting the following:

"Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the department a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the department. Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section."

HB 554, AN ACT relating to the taxation of racing associations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.510 is amended to read as follows:

- (1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) **of this section** shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars (\$1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. **However, effective January 1, 2001, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars (\$10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event.** For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:
 - (a) At a receiving track;
 - (b) At a simulcast facility;
 - (c) On telephone account wagering; or
 - (d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the **total** live racing handle for thoroughbred racing and one percent (1%) of the **total** live handle for harness racing.
- (2) An excise tax is imposed on:
 - (a) All licensed tracks conducting telephone account wagering;
 - (b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and
 - (c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.
- (3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.
- (4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:
 - (a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in

- the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or
- (b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.
- (5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.
- (6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

HB 625, AN ACT relating to the Kentucky Racing Health and Welfare Fund, Inc.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc. may create and fund the Kentucky Race Track Retirement Plan. The board shall use no more than twenty-five percent (25%) of the annual sum paid by the commission under KRS 230.361 to 230.373 to fund the plan.
- (2) The plan shall be provided for the benefit of thoroughbred trainers, assistant trainers, exercise riders, grooms, stable attendants, and other stable employees who can demonstrate that they are not otherwise eligible to participate in any other private or public, nonself-funded retirement or pension plan.
- (3) The Kentucky Race Track Retirement Plan shall be administered by the board of directors of the Kentucky Racing Health and Welfare Fund, Inc., for the charitable and benevolent purposes set forth in KRS 230.374, and no part of the sums administered by the fund for the plan or any net earnings of the plan shall inure to the benefit of any private individual, director, officer, or member of the fund, or any of the persons who paid sums to the commission under the provisions of KRS 230.361 to 230.373.
- (4) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., shall be the trustee of the plan's funds and shall have full power to invest and reinvest funds. Investments shall be diversified to balance the risks associated with various investment options to maintain the long-term solvency of the plan. The board shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the investments in which any of the plan's funds have been invested, as well as of the proceeds of investments belonging to the plan. The board members or any investment manager shall discharge their duties with respect to the assets of the plan solely in the interest of the plan's members and:
- (a) For the exclusive purposes of providing benefits to plan members and their beneficiaries and defraying reasonable expenses of administering the plan;
- (b) With the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and
- (c) In accordance with any other laws or instruments governing the administration of the plan's funds.

SB 39, AN ACT relating to the sale of alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) To promote economic development and tourism in a county containing a city that has, in whole or in part, voted to

discontinue prohibition, a local option election for the limited sale of alcoholic beverages may be held in any precinct containing a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course, notwithstanding any other provisions of the Kentucky Revised Statutes.

- (2) A local option election for the limited sale of alcoholic beverages held under subsection (1) shall be conducted in the same manner specified in KRS 242.020 to 242.120, except that the form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?"
- (3) Upon approval of the proposition, the Department of Alcoholic Beverage Control may issue a license to the golf course for the sale of alcoholic beverages by the drink as provided in KRS 243.030 and KRS 243.040.
- (4) No alcoholic beverage license shall be issued to any applicant within the precinct except the nine (9) or the eighteen (18) hole regulation golf course named in the proposition.

SECTION 2. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) The Department of Alcoholic Beverage Control shall not issue a license to an applicant authorized to apply for a license to sell alcoholic beverages by the drink under Section 1 of this Act unless the applicant and the golf course, if different from the applicant, agree to voluntarily comply with the provisions of KRS Chapter 344, whether or not the applicant and the golf course would otherwise be covered by the provisions of KRS Chapter 344.
- (2) The department shall revoke or suspend any license issued under Section 1 of this Act if the department or the Kentucky Commission on Human Rights makes a finding that the applicant or the golf course, if different from the applicant, has violated a requirement specified in this section.

The Committee on State Government reported HB 647, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 647, AN ACT relating to the consolidation of local governments in counties containing cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The governmental and corporate functions vested in any city of the first class shall, upon approval by the voters of the county at a regular or special election, be consolidated with the governmental and corporate functions of the county containing the city. This single government replaces and supersedes the governments of the pre-existing city of the first class and its county.
- (2) A consolidated local government shall have all powers and privileges that cities of the first class and their counties are, or may hereafter be, authorized to exercise under the Constitution and the general laws of the Commonwealth of Kentucky, including but not limited to those powers granted to cities of the first class and their counties under their respective home rule powers. A consolidated local government shall continue to exercise these powers and privileges notwithstanding repeal or amendment of any of the laws upon which the powers and privileges are based unless expressly repealed or amended for consolidated local governments. In addition, a consolidated local government shall have other powers and privileges as the government may be authorized to exercise under the Constitution and general laws of the Commonwealth of Kentucky.
- (3) A consolidated local government shall have power and authority to:
 - (a) Levy and collect taxes upon all property taxable for state purposes within the territorial limits of the consolidated local government not exempt by law from taxation;
 - (b) License, tax, and regulate privileges, occupations, trades, and professions authorized by law, to be uniform throughout the jurisdiction;
 - (c) Make appropriations for the support of the consolidated local government and provide for the payment of all debts and expenses of the consolidated local government and the debts and expenses of the county and city of which it is the successor;
 - (d) Issue or cause to be issued bonds and other debt instruments that counties containing a city of the first class are authorized to issue or enter into all other financial transactions as may be permitted by law;
 - (e) Purchase, lease, construct, maintain, or otherwise acquire, hold, use, and operate any property, real or personal, for any public purpose, and sell, lease, or otherwise dispose of any property, real or personal, belonging to a consolidated local government;
 - (f) Exercise the power of eminent domain for any public purpose subject to the limitations and exceptions prescribed by the Constitution and the general laws of the Commonwealth of Kentucky;
 - (g) Accept federal or state funds and other sources of revenue that are applicable to counties and cities of the first class;
 - (h) Establish, erect, maintain, and operate facilities for the confinement, detention, and rehabilitation of persons

convicted of the violation of the ordinances and laws of a consolidated local government or the Commonwealth of Kentucky;

- (i) Pass and enforce by fines and penalties, if necessary, all ordinances, not inconsistent with law, as are expedient in maintaining the peace, good government, health, and welfare of the inhabitants of the county and prevent, abate, and remove nuisances;
 - (j) Collect and dispose of garbage, junk, and other refuse, and regulate the collection and disposal of garbage, junk, and other refuse by others;
 - (k) Provide for the redevelopment, renewal, or rehabilitation of blighted, deteriorated, or dilapidated areas;
 - (l) Enforce zoning regulations;
 - (m) Enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;
 - (n) Adopt procedures for collective bargaining with its employees and for the certification of exclusive bargaining agents for groups of employees in accordance with the Constitution and general laws of the Commonwealth of Kentucky and its ordinances; and
 - (o) Exercise all other powers and authorities granted to counties and cities of the first class by the general laws of the Commonwealth of Kentucky.
- (4) The powers of the consolidated local government shall be construed broadly in favor of the consolidated local government. The specific mention, or failure to mention, of particular powers in this section shall not be construed as limiting in any way the general or specific powers of a consolidated local government.
- (5) A consolidated local government shall have power and jurisdiction throughout the total area embraced by the official jurisdictional boundaries of the county.
- (6) A consolidated local government shall be known as Greater, which shall be the name of the largest city in existence on the date of the adoption of the consolidated government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The legislative authority of a consolidated local government, except as otherwise specified in Sections 1 to 19 of this Act, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district.
- (2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by Section 18 of this Act. The population of the council districts shall be as equal as is reasonable. For any newly consolidated local governments whose officials take office in 2003, upon taking office, the legislative council may take action to adjust the boundaries and population of the districts in order to equalize the population of the districts which may have changed as a result of recent census information. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.
- (3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as equally as is reasonable. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.
- (4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a three (3) year term. Those representing odd-numbered districts shall be elected for a five (5) year term. Thereafter, all council members shall be elected for four (4) year terms.
- (5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.
- (6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least twenty-one (21) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.
- (7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The

council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.

- (8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least two (2) regular meetings per month.
- (9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.
- (10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.
- (11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:
 - (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.
- (12) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. Upon notification of the vacancy by the county clerk, the Governor shall appoint a person to fill a vacancy on the consolidated local government council not later than thirty (30) days after the date on which the vacancy occurs.
- (13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:
 - (a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;
 - (b) Review the budgets of and appropriate money to the consolidated local government;
 - (c) Adopt a budget ordinance;
 - (d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;
 - (e) Establish standing and temporary committees; and
 - (f) Make independent audits and investigations concerning the affairs of the consolidated local government.
- (14) The consolidated local government council shall be known as the legislative council of Greater, which shall be completed by the name of the largest city in existence in the county on the date of the consolidation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) All executive and administrative power of the government shall be vested in the office of the mayor. The term "executive and administrative power" shall be construed broadly. The mayor shall be the chief executive of a consolidated local government formed under the provisions of Sections 1 to 19 of this Act.
- (2) The mayor shall be nominated and elected in partisan elections for a term of four (4) years in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth. The mayor shall assume office on the first Monday in January following his or her election. He or she shall serve until a successor qualifies and may serve for no more than three (3) consecutive terms after which time he or she shall be prohibited from running for election or being appointed as mayor for a period of at least four (4) years.
- (3) The mayor shall be at least twenty-five (25) years old, a qualified voter, a member of his or her political party, and a resident of the territory encompassing the consolidated local government for a period of at least one (1) year prior to his or her election as mayor. The mayor shall continue to reside within the geographic boundary of the consolidated local government throughout his or her term of office.
- (4) Except as otherwise provided in Sections 1 to 19 of this Act, the mayor shall have all the power and authority that the mayor of the city of the first class and the county judge/executive exercised under the Constitution and the general laws of the Commonwealth of Kentucky prior to the consolidation.
- (5) The mayor is authorized to supervise, administer, and control all departments and agencies as may be created by Sections 1 to 19 of this Act or created by ordinance. The mayor shall appoint all department and agency directors. The appointees shall serve at the pleasure of the mayor. Specifically, the mayor shall:
 - (a) Prepare and submit an annual report coinciding with the fiscal year, on the state of the consolidated local government, to be presented at a public meeting of the council;

- (b) Submit an annual budget;
 - (c) Oversee the administration and implementation of the adopted budget ordinance;
 - (d) Enforce the ordinances of the consolidated local government;
 - (e) Supervise all officers, agents, employees, cabinets, departments, offices, agencies, functions, and duties of the consolidated local government;
 - (f) Call special meetings of the consolidated local government council;
 - (g) Appoint and remove his or her own staff at his or her own pleasure;
 - (h) Execute written contracts or obligations of the consolidated local government; and
 - (i) Approve or veto ordinances and resolutions adopted by the consolidated local government council.
- (6) In case the office of mayor becomes vacant by reason of death, resignation, or removal, it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of mayor not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of mayor, the members of the legislative body of the consolidated local government shall elect one (1) of their members to serve as temporary mayor until the Governor fills the vacancy in the office, notwithstanding the provisions of KRS 61.080(2) to the contrary.
- (7) The mayor of a consolidated local government shall be known as the mayor of Greater, which shall be completed by the name of the largest city in existence in the county on the date of the consolidation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) Upon public approval at a regular or special election of a consolidation of a city of the first class and their county, all regular employees of the city of the first class and the county shall become employees of the consolidated local government.
- (2) All rights, privileges, and protections attributed to all regular employees by a civil service or classified service system established by a city of the first class or a county containing a city of the first class shall continue in effect until changed by statute or ordinance when applicable.
- (3) A consolidated local government shall recognize any bargaining unit consisting of public employees recognized by either the previously existing city or county government.
- (4) All labor contracts in existence in a city of the first class or a county containing a city of the first class on the effective date of a local government consolidation shall continue in effect until the expiration of the terms of the contracts at which time new contracts shall be renegotiated between the consolidated local government and affected labor representatives.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

A consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the Constitution and the general laws of the Commonwealth of Kentucky for the purpose of applying for or receiving any aid or grant-in-aid from the Commonwealth of Kentucky or the government of the United States.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) All cities other than those of the first class located within the territory of the consolidated local government, upon the successful passage of the question to consolidate a city of the first class and its county, shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform the functions permitted by the Constitution and general laws of the Commonwealth of Kentucky applicable to the cities of the class to which they have been assigned.
- (2) Upon the adoption of a consolidated local government in a county containing a city of the first class, there shall be no further incorporations of cities within the county.
- (3) Upon the adoption of a consolidated local government in a county containing a city of the first class, there shall be no annexations for a period of twelve (12) years by any city remaining in the county. After that time, any proposed annexation by a city in that county shall first receive the approval of the legislative council of the consolidated local government prior to the city proceeding under the provisions of KRS Chapter 81A. The city shall request the approval of the consolidated legislative council by ordinance. The consolidated legislative council's decision shall be made by ordinance and within sixty (60) days of the receipt of the request by the affected city. If an ordinance has not been enacted by the consolidated legislative council within sixty (60) days, the request for a city to proceed with an annexation proposal shall be deemed to be approved by the consolidated legislative council.
- (4) The adoption of a consolidated local government in a county containing a city of the first class shall not prevent the merger or dissolution of any existing cities as provided by law or the merger of any remaining cities with the newly consolidated local government.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

All taxing districts, fire protection districts, sanitation districts, water districts, and any other special taxing or service districts of any kind existing upon the successful passage of the question to consolidate a city of the first class and its county shall continue in existence unless dissolved in the manner prescribed by law and shall continue to exercise all the powers and functions permitted by the Constitution and the general laws of the Commonwealth of Kentucky.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) Upon the successful passage of the question to consolidate a city of the first class and its county, the ordinances, regulations, and orders of the previously existing city of the first class and the county shall initially govern the consolidated local government along with any new ordinances, resolutions, or orders that may be enacted.
- (2) Any ordinance, regulation, or order in effect in a city of the first class or its county on the date of the adoption of a consolidated local government shall expire five (5) years from the date the new government takes effect unless amended or reenacted by the new consolidated local government.
- (3) The county attorney shall serve as the legal advisor and representative to the consolidated local government.
- (4) The county attorney shall review all ordinances, resolutions, and orders in effect in the city of the first class and the county in order to identify conflicting language between the varying ordinances, resolutions, and orders. The county attorney shall present a listing of the conflicts between the ordinances, resolutions, and orders to the legislative body of the consolidated local government at its first meeting.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) (a) It shall be the policy of the consolidated local government to ensure that opportunities generated directly or indirectly by the consolidated local government are equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age.
(b) It shall also be the policy of the consolidated local government to include the minority community in all aspects of governance in the consolidated local government. Minority citizens and business shall be represented in all actions of the consolidated government, including but not limited to government employment, appointments to boards or commissions, contracting, and purchasing.
- (2) The percentage of minority citizens who shall be employed by the consolidated local government or appointed to each of its boards and commissions shall be no less than the percentage of minority citizens in the community, or the percentage of minority representatives on the consolidated local government's legislative body, whichever is greater.
- (3) The consolidated local government shall adopt ordinances and develop policies to achieve the mandate set forth in this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The consolidated local government shall have an affirmative action plan that complies with all current federal guidelines and requirements relevant to local governments.
- (2) The mayor shall prepare and implement an affirmative action plan.
- (3) There shall be established under the direction of the mayor an office that shall be called the "Affirmative Action Office."
- (4) The Affirmative Action Office shall aid the mayor in preparing the plan, and shall be responsible for the day-to-day operation and implementation of the affirmative action plan.
- (5) An affirmative action plan, in addition to following all federal requirements, shall include good faith efforts to:
 - (a) Determine the extent to which minorities and women are underutilized in major categories;
 - (b) Identify and eliminate the specific causes of the underutilization;
 - (c) Identify and eliminate all employment practices that have an adverse impact on minorities, women, and others protected by applicable law and the relationship of which to job performance has not been clearly established;
 - (d) Rely exclusively on practices that are based on merits and other valid job related criteria;
 - (e) Develop, substantial applicant pools of validly qualified minorities and women, special recruitment efforts, and other measures to insure that sufficient numbers of these groups are included to help reduce their underutilization;
 - (f) Develop, through special recruitment efforts and other measures, applicant pools in which handicapped persons are represented equitably;
 - (g) Project goals and timetables to include estimates of the representation of minorities and women likely to result from the operation of this affirmative action plan; and
 - (h) Establish organizational structures and monitoring systems that will ensure effective operation of its goals, and means for modification of the plan as needed.
- (6) All contracts, leases, or other agreements for materials, supplies, equipment, or contractual services other than professional that, in the aggregate, exceed ten thousand dollars (\$10,000) in any calendar year shall be awarded in

compliance with KRS 424.260.

- (7) Notwithstanding anything to the contrary in this section, the provisions of this section shall apply to every person, firm, corporation, and association that has been awarded contracts, leases, or other agreements as provided by KRS 424.260 that, in the aggregate, exceed ten thousand dollars (\$10,000) in any calendar year.
- (8) Employment opportunities generated directly or indirectly by the government of the consolidated local government shall be equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age. In order to ensure that employment opportunities generated directly or indirectly by the consolidated local government are equally available, contractors and vendors shall be approved as provided by this section prior to the awarding of any contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars (\$10,000) with the consolidated local government.
- (9) No person, firm, corporation, or association shall be awarded a contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars (\$10,000) until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
- (10) No officer, employee, or agent of the consolidated local government shall accept a contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars (\$10,000) with the consolidated local government until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
- (11) All persons, firms, corporations, or associations seeking to bid on contracts, leases, or other agreements that require an expenditure exceeding ten thousand dollars (\$10,000) with the consolidated local government shall submit a request for prequalification as an eligible contractor, pursuant to the procedures and requirements enacted by ordinance by the consolidated local government.
- (12) The consolidated local government shall make available a list of all bidders who have been prequalified and shall distribute the list to the appropriate purchasing officers, employees, or agents of the consolidated local government.
- (13) Any person, firm, corporation, or association that submits an otherwise qualified bid for a contract, lease, or other agreement pursuant to the provisions of KRS 424.260, but that has not prequalified pursuant to this section, may be approved by the consolidated local government as provided by this section. Any person, firm, or corporation that is approved by the consolidated local government shall thereafter be qualified and considered eligible for award for a contract, lease, or other agreement.
- (14) The consolidated local government shall prequalify persons, firms, corporations, and associations seeking a contract, lease, or other agreement that requires an expenditure exceeding ten thousand dollars (\$10,000) with the consolidated local government if on an analysis of the workforce of that entity the consolidated local government determines that:

 - (a) The entity is not deficient in the utilization of minority groups or women;
 - (b) The entity has an acceptable, bona fide affirmative action plan;
 - (c) The entity is a small business that employs ten (10) or fewer individuals;
 - (d) The entity has a federally approved affirmative action program; or
 - (e) The consolidated local government has made a finding based on other reasonable criteria, and after consideration of the provisions of 41 C.F.R. 60-2, determines the entity does not require an affirmative action plan.
- (15) An acceptable affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include:

 - (a) An analysis of the areas of the entity's workforce within which it is deficient in the utilization of minority groups and women; and
 - (b) Timetables to which the entity's good faith efforts shall be directed to correct the deficiencies and to achieve prompt and full utilization of minorities and women at all levels and in all segments of its workforce where deficiencies exist.
- (16) A bona fide affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include a set of specific and result-oriented procedures, goals, and timetables to which an entity commits itself to apply every good faith effort in order to achieve equal employment opportunity. Procedures without effort to make them work are meaningless and effort undirected by specific and meaningful procedures is inadequate.
- (17) In reviewing an affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government, the consolidated local government shall be guided by the relevant provisions of 41 C.F.R. 60-2 which outlines the requirements of affirmative action plans for federal contractors and vendors.
- (18) The consolidated local government shall use its best efforts, directly and through contracting agencies, other interested federal, state, and local agencies, contractors, and all other available instrumentalities to cause any labor union

engaged in work pursuant to contracts, leases, and agreements that are the subject matter of this section or any agency referring workers or providing or supervising apprenticeship or training for or in the course of this work to cooperate in the implementation of the purposes of this section.

- (19) The consolidated local government on its own motion or on motion of any interested party shall cause hearings as it deems necessary for compliance or enforcement of this section.
- (20) The consolidated local government shall hold a hearing prior to imposing or recommending the imposition of penalties and sanctions for violation of this section. No penalty that would prohibit any contractor from obtaining future contracts under this section shall be made without affording the contractor an opportunity for a hearing.
- (21) Notice of any final decision or determination of the consolidated local government that affects the running of time for taking an appeal shall be mailed to all parties in the matter, including the proposed contractor, lessor or other party, and the affected local government offices.
- (22) The consolidated local government shall establish an affirmative action appeals board for purposes of hearing appeals from any final decision relating to matters pertaining to this section. The board shall be composed of the county attorney, or his or her designee, the council president of the consolidated local government, or his or her designee, and a representative of the financial department of the consolidated local government, or his or her designee.
- (23) Any appeal from a decision of the consolidated local government shall be hand-delivered or mailed by certified mail to the affirmative action appeals board not later than thirty (30) days from the date of the local government's decision. The appeal shall set forth the grounds for the appeal. The appeals board shall notify all parties in writing of the time and place of a hearing. The hearing committee may issue subpoenas for any witnesses requested by either of the parties or in the appeals board's opinion necessary to the proper disposition of the matter to be heard. All parties shall be allowed legal representation, witnesses may be cross-examined, and the proceeding shall be recorded. The local government shall transmit, within ten (10) days after receipt of notice of appeal, all the original papers in action to the appeals board.
- (24) The appeals board shall have the power to require the contractor to furnish all necessary records and give testimony as to enable the board to render a fair and competent decision. The duty of the board shall be to review all records, hear all testimonies of witnesses, and determine whether the decision of the local government was correct. The decision of the appeals board shall be final. The decision of the appeals board shall be transmitted in writing to the appropriate offices of the local government for implementation and shall set forth specifically its findings of fact and conclusions relative to its determination. The administration of sanctions and penalties in accordance with that determination shall be the duty of the appropriate department or contracting agency of the consolidated local government.
- (25) (a) On request of the adversely affected party the appeals board may, on terms as are just, relieve a party from its final order of determination on the following grounds:
 1. Mistake, inadvertence, surprise, or excusable neglect;
 2. Newly discovered evidence that by due diligence could not have been discovered in time for the hearing;
 3. Perjury or falsified evidence; or
 4. Fraud affecting the proceedings other than perjury or falsified evidence.

(b) The request shall be made within thirty (30) days after notification of the appeals board's final determination. A request under this subsection does not affect the finality of the order or determination or suspend its operation.
- (26) In accordance with the enforcement provisions of this section, the consolidated local government may cancel, terminate, suspend, or cause to be canceled, terminated, or suspended, any contract, lease, or agreement that is the subject matter of this section for failure of the contractor or vendor to comply. Contracts, leases, and agreements may be canceled, terminated, or suspended absolutely or continuance of contracts, leases, and agreements may be conditioned on a program for future compliance as approved by the consolidated local government.
- (27) Any contracting agency shall refrain from entering into further contracts or extensions or other modifications of existing contracts, with any noncomplying contractor, until the contractor has established and will carry out personnel and employment policies in compliance with the provisions of this section.
- (28) Whenever the consolidated local government makes a determination regarding noncompliance by a contractor pursuant to this section, it shall promptly notify the appropriate contracting agency and other affected local government agencies and offices of the action recommended. The contracting agency shall take the action recommended and shall report the results of that action to the consolidated local government.
- (29) If the appeals board shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this order or submits a program for compliance acceptable to the consolidated local government.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) All offices provided for in Section 99 of the Constitution of Kentucky shall remain in existence upon the consolidation of a city of the first class with its county. However, all existing powers and duties of these offices shall be assigned to

the consolidated local government. To the extent permitted by the Constitution of Kentucky, the office of county judge/executive, justices of the peace, and county commissioners may be statutorily limited in a consolidated local government.

- (2) Nothing in Sections 1 to 19 of this Act shall alter or affect the election or term of any county court clerk, county attorney, sheriff, jailer, coroner, surveyor, or assessor. Nor shall any provision of Sections 1 to 19 of this Act be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the consolidated local government.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The tax structure, tax rates, and level of services in effect in the city of the first class and its county upon the adoption of a consolidated local government shall remain in effect after the adoption of the consolidated local government and shall remain the same until changed by the newly elected consolidated local government council.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of Sections 1 to 19 of this Act or any subsequent enactment of a general nature of the General Assembly of the Commonwealth of Kentucky, a consolidated local government shall not levy any tax on real property at a rate or rates in excess of that allowed by KRS 68.245 and KRS 132.027. The limitations in those statutes shall apply to the consolidated local government in the same manner as applied to all other counties and cities.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Any cooperative compact in existence in a county containing a city of the first class on the effective date of this Act shall remain in effect unless a consolidated local government is adopted as provided in Sections 1 to 19 of this Act. The terms and agreements within a cooperative compact shall remain the same and in effect until the installation of the officers of the newly consolidated local government. If the voters in a county containing a city of the first class fail to approve a proposal for a consolidated local government then the cooperative compact shall remain in effect for the duration of the terms of the compact agreement.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The salary of the mayor of a newly consolidated local government created by the provisions of Sections 1 to 19 of this Act shall be the same as that allowed for a mayor of a city of the first class as provided by Section 246 of the Kentucky Constitution.

SECTION 16. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The salary of the members of the legislative council of a newly consolidated local government created by the provisions of Sections 1 to 19 of this Act shall be eighty percent (80%) of that amount that is permitted for county commissioners on the effective date of this Act as provided by Section 246 of the Kentucky Constitution. In order to equate the compensation of legislative council members with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.
- (2) Each legislative council member may hire one (1) full-time staff person.

SECTION 17. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The Auditor of Public Accounts, in order to insure the authorized, legal, regular, and safe handling, administration, or expenditure of public funds, shall annually audit the funds budgeted by any consolidated local government in a county containing a city of the first class. Actions taken by the Auditor and the local government for compliance with this section shall be the same as those required by KRS Chapters 43 and 424 and by KRS 43.070, 64.810, 64.820, 64.830, 64.840, and 64.850 relating to financial administration and the responsibilities of the handling of public funds.

SECTION 18. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) Upon certification of the election at which the voters of a county containing a city of the first class have approved the consolidation of a city of the first class and the county, a plan to divide the county into twenty-six (26) legislative council districts shall be submitted to the fiscal court in order to establish the initial boundaries of the legislative council districts for the newly consolidated government.
- (2) The district plan for the legislative council shall be prepared and submitted by representatives of a department of geography from the largest public university that exists within the county.
- (3) Upon submission of the plan that lays out the initial boundaries of the legislative council districts, the fiscal court shall approve the plan within thirty (30) days as submitted and without amendment.

- (4) The boundaries of the districts shall be drawn so that the districts are compact and contiguous, and the population of each district shall be as nearly equal as is reasonably possible.
- (5) Thereafter, and not less than every ten (10) years, the legislative council shall initiate reapportionment proceedings in February of the second year following the decennial census of the United States to review the districts and reapportion them if necessary.
- (6) To initiate a reapportionment proceeding, the legislative council shall publish notice of the planned reapportionment in accordance with KRS Chapter 424.
- (7) In no event shall districts be reapportioned during the period from thirty (30) days prior to the last date for filing for candidacy for local government office as provided in KRS 118.165 and the regular election for candidates for local government office.
- (8) Precinct lines shall be drawn when necessary in accordance with the provisions of law. No precinct shall be in more than one (1) district.
- (9) Within twenty (20) days of the establishment of the districts by the legislative council, any registered voter of the county may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the legislative council has violated the provisions of this section, remand the matter to the legislative council. The Circuit Court, in its discretion, may allow the prevailing party, other than the legislative council, a reasonable attorney's fee, to be paid from the treasury of the local government, as part of the costs.

SECTION 19. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) In every county containing a city of the first class in existence on the effective date of this Act, a question regarding the consolidation of the city of the first class and their county as provided by Sections 1 to 19 of this Act shall be submitted to the voters of the county at a special election to be held on the third Tuesday in May of 2001. The election shall be governed by the general election laws of the Commonwealth. Approval of the proposal shall require a simple majority of those voting on the question.
- (2) The question to be submitted to the voters shall read as follows:
"Are you in favor of combining the City of and County into a single government with a mayor and legislative council, keeping all other cities, fire protection districts and special districts in existence?"

Section 20. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

The Committee Substitute No. 1 to HB 647 is as follows:

HB 647, AN ACT relating to the consolidation of local governments in counties containing cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The governmental and corporate functions vested in any city of the first class shall, upon approval by the voters of the county at a regular or special election, be consolidated with the governmental and corporate functions of the county containing the city. This single government replaces and supersedes the governments of the pre-existing city of the first class and its county.
- (2) A consolidated local government shall have all powers and privileges that cities of the first class and their counties are, or may hereafter be, authorized to exercise under the Constitution and the general laws of the Commonwealth of Kentucky, including but not limited to those powers granted to cities of the first class and their counties under their respective home rule powers. A consolidated local government shall continue to exercise these powers and privileges notwithstanding repeal or amendment of any of the laws upon which the powers and privileges are based unless expressly repealed or amended for consolidated local governments. In addition, a consolidated local government shall have other powers and privileges as the government may be authorized to exercise under the Constitution and general laws of the Commonwealth of Kentucky.
- (3) A consolidated local government shall have power and authority to:
 - (a) Levy and collect taxes upon all property taxable for state purposes within the territorial limits of the consolidated local government not exempt by law from taxation;
 - (b) License, tax, and regulate privileges, occupations, trades, and professions authorized by law, to be uniform throughout the jurisdiction;
 - (c) Make appropriations for the support of the consolidated local government and provide for the payment of all debts and expenses of the consolidated local government and the debts and expenses of the county and city of which it is the successor;

- (d) Issue or cause to be issued bonds and other debt instruments that counties containing a city of the first class are authorized to issue or enter into all other financial transactions as may be permitted by law;
 - (e) Purchase, lease, construct, maintain, or otherwise acquire, hold, use, and operate any property, real or personal, for any public purpose, and sell, lease, or otherwise dispose of any property, real or personal, belonging to a consolidated local government;
 - (f) Exercise the power of eminent domain for any public purpose subject to the limitations and exceptions prescribed by the Constitution and the general laws of the Commonwealth of Kentucky;
 - (g) Accept federal or state funds and other sources of revenue that are applicable to counties and cities of the first class;
 - (h) Establish, erect, maintain, and operate facilities for the confinement, detention, and rehabilitation of persons convicted of the violation of the ordinances and laws of a consolidated local government or the Commonwealth of Kentucky;
 - (i) Pass and enforce by fines and penalties, if necessary, all ordinances, not inconsistent with law, as are expedient in maintaining the peace, good government, health, and welfare of the inhabitants of the county and prevent, abate, and remove nuisances;
 - (j) Collect and dispose of garbage, junk, and other refuse, and regulate the collection and disposal of garbage, junk, and other refuse by others;
 - (k) Provide for the redevelopment, renewal, or rehabilitation of blighted, deteriorated, or dilapidated areas;
 - (l) Enforce zoning regulations;
 - (m) Enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;
 - (n) Adopt procedures for collective bargaining with its employees and for the certification of exclusive bargaining agents for groups of employees in accordance with the Constitution and general laws of the Commonwealth of Kentucky and its ordinances; and
 - (o) Exercise all other powers and authorities granted to counties and cities of the first class by the general laws of the Commonwealth of Kentucky.
- (4) The powers of the consolidated local government shall be construed broadly in favor of the consolidated local government. The specific mention, or failure to mention, of particular powers in this section shall not be construed as limiting in any way the general or specific powers of a consolidated local government.
 - (5) A consolidated local government shall have power and jurisdiction throughout the total area embraced by the official jurisdictional boundaries of the county.
 - (6) A consolidated local government shall be known as Greater, which shall be the name of the largest city in existence on the date of the adoption of the consolidated government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The legislative authority of a consolidated local government, except as otherwise specified in Sections 1 to 19 of this Act, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.
- (2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by Section 18 of this Act. The population of the council districts shall be as nearly equal as is reasonably possible. For any newly consolidated local governments whose officials take office in 2003, upon taking office, the legislative council may take action to adjust the boundaries and population of the districts in order to equalize the population of the districts which may have changed as a result of recent census information. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.
- (3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.
- (4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a three (3) year term. Those representing odd-numbered districts shall be elected for a five (5) year term. Thereafter, all council members shall be elected for four (4) year terms.

- (5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.
- (6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least twenty-one (21) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.
- (7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.
- (8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least two (2) regular meetings per month.
- (9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.
- (10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.
- (11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:
 - (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.
- (12) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. Upon notification of the vacancy by the county clerk, the Governor shall appoint a person to fill a vacancy on the consolidated local government council not later than thirty (30) days after the date on which the vacancy occurs.
- (13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:
 - (a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;
 - (b) Review the budgets of and appropriate money to the consolidated local government;
 - (c) Adopt a budget ordinance;
 - (d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;
 - (e) Establish standing and temporary committees; and
 - (f) Make independent audits and investigations concerning the affairs of the consolidated local government.
- (14) The consolidated local government council shall be known as the legislative council of Greater, which shall be completed by the name of the largest city in existence in the county on the date of the consolidation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) All executive and administrative power of the government shall be vested in the office of the mayor. The term "executive and administrative power" shall be construed broadly. The mayor shall be the chief executive of a consolidated local government formed under the provisions of Sections 1 to 19 of this Act.
- (2) The mayor shall be nominated and elected in partisan elections for a term of four (4) years in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth. The mayor shall assume office on the first Monday in January following his or her election. He or she shall serve until a successor qualifies and may serve for no more than three (3) consecutive terms after which time he or she shall be prohibited from running for election or being appointed as mayor for a period of at least four (4) years.
- (3) The mayor shall be at least twenty-five (25) years old, a qualified voter, a member of his or her political party, and a resident of the territory encompassing the consolidated local government for a period of at least one (1) year prior to

his or her election as mayor. The mayor shall continue to reside within the geographic boundary of the consolidated local government throughout his or her term of office.

- (4) Except as otherwise provided in Sections 1 to 19 of this Act, the mayor shall have all the power and authority that the mayor of the city of the first class and the county judge/executive exercised under the Constitution and the general laws of the Commonwealth of Kentucky prior to the consolidation.
- (5) The mayor is authorized to supervise, administer, and control all departments and agencies as may be created by Sections 1 to 19 of this Act or created by ordinance. The mayor shall appoint all department and agency directors. The appointees shall serve at the pleasure of the mayor. Specifically, the mayor shall:
 - (a) Prepare and submit an annual report coinciding with the fiscal year, on the state of the consolidated local government, to be presented at a public meeting of the council;
 - (b) Submit an annual budget;
 - (c) Oversee the administration and implementation of the adopted budget ordinance;
 - (d) Enforce the ordinances of the consolidated local government;
 - (e) Supervise all officers, agents, employees, cabinets, departments, offices, agencies, functions, and duties of the consolidated local government;
 - (f) Call special meetings of the consolidated local government council;
 - (g) Appoint and remove his or her own staff at his or her own pleasure;
 - (h) Execute written contracts or obligations of the consolidated local government; and
 - (i) Approve or veto ordinances and resolutions adopted by the consolidated local government council.
- (6) In case the office of mayor becomes vacant by reason of death, resignation, or removal, it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of mayor not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of mayor, the members of the legislative body of the consolidated local government shall elect one (1) of their members to serve as temporary mayor until the Governor fills the vacancy in the office, notwithstanding the provisions of KRS 61.080(2) to the contrary.
- (7) The mayor of a consolidated local government shall be known as the mayor of Greater, which shall be completed by the name of the largest city in existence in the county on the date of the consolidation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) Upon public approval at a regular or special election of a consolidation of a city of the first class and their county, all regular employees of the city of the first class and the county shall become employees of the consolidated local government.
- (2) All rights, privileges, and protections attributed to all regular employees by a civil service or classified service system established by a city of the first class or a county containing a city of the first class shall continue in effect until changed by statute or ordinance when applicable.
- (3) A consolidated local government shall recognize and shall continue to bargain with any bargaining unit consisting of public employees recognized by either the previously existing city or county government.
- (4) All labor contracts in existence in a city of the first class or a county containing a city of the first class on the effective date of a local government consolidation shall continue in effect until the expiration of the terms of the contracts at which time new contracts shall be renegotiated between the consolidated local government and affected labor representatives.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

A consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the Constitution and the general laws of the Commonwealth of Kentucky for the purpose of applying for or receiving any aid or grant-in-aid from the Commonwealth of Kentucky or the government of the United States.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) All cities other than those of the first class located within the territory of the consolidated local government, upon the successful passage of the question to consolidate a city of the first class and its county, shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform the functions permitted by the Constitution and general laws of the Commonwealth of Kentucky applicable to the cities of the class to which they have been assigned.
- (2) Upon the adoption of a consolidated local government in a county containing a city of the first class, there shall be no further incorporations of cities within the county.
- (3) Upon the adoption of a consolidated local government in a county containing a city of the first class, there shall be no annexations for a period of twelve (12) years by any city remaining in the county. After that time, any proposed

annexation by a city in that county shall first receive the approval of the legislative council of the consolidated local government prior to the city proceeding under the provisions of KRS Chapter 81A. The city shall request the approval of the consolidated legislative council by ordinance. The consolidated legislative council's decision shall be made by ordinance and within sixty (60) days of the receipt of the request by the affected city. If an ordinance has not been enacted by the consolidated legislative council within sixty (60) days, the request for a city to proceed with an annexation proposal shall be deemed to be approved by the consolidated legislative council.

- (4) The adoption of a consolidated local government in a county containing a city of the first class shall not prevent the merger or dissolution of any existing cities as provided by law or the merger of any remaining cities with the newly consolidated local government.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

All taxing districts, fire protection districts, sanitation districts, water districts, and any other special taxing or service districts of any kind existing upon the successful passage of the question to consolidate a city of the first class and its county shall continue in existence unless dissolved in the manner prescribed by law and shall continue to exercise all the powers and functions permitted by the Constitution and the general laws of the Commonwealth of Kentucky.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) Upon the successful passage of the question to consolidate a city of the first class and its county, the ordinances, regulations, and orders of the previously existing city of the first class and the county shall initially govern the consolidated local government along with any new ordinances, resolutions, or orders that may be enacted.
- (2) Any ordinance, regulation, or order in effect in a city of the first class or its county on the date of the adoption of a consolidated local government shall expire five (5) years from the date the new government takes effect unless amended or reenacted by the new consolidated local government.
- (3) The county attorney shall serve as the legal advisor and representative to the consolidated local government.
- (4) The county attorney shall review all ordinances, resolutions, and orders in effect in the city of the first class and the county in order to identify conflicting language between the varying ordinances, resolutions, and orders. The county attorney shall present a listing of the conflicts between the ordinances, resolutions, and orders to the legislative body of the consolidated local government at its first meeting.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) (a) It shall be the policy of the consolidated local government to ensure that opportunities generated directly or indirectly by the consolidated local government are equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age.
- (b) It shall also be the policy of the consolidated local government to include the minority community in all aspects of governance in the consolidated local government. Minority citizens and business shall be represented in all actions of the consolidated government, including but not limited to government employment, appointments to boards or commissions, contracting, and purchasing.
- (2) The percentage of minority citizens who shall be employed by the consolidated local government or appointed to each of its boards and commissions shall be no less than the percentage of minority citizens in the community, or the percentage of minority representatives on the consolidated local government's legislative body, whichever is greater.
- (3) The consolidated local government shall adopt ordinances and develop policies to achieve the mandate set forth in this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The consolidated local government shall have an affirmative action plan that complies with all current federal guidelines and requirements relevant to local governments.
- (2) The mayor shall prepare and implement an affirmative action plan.
- (3) There shall be established under the direction of the mayor an office that shall be called the "Affirmative Action Office."
- (4) The Affirmative Action Office shall aid the mayor in preparing the plan, and shall be responsible for the day-to-day operation and implementation of the affirmative action plan.
- (5) An affirmative action plan, in addition to following all federal requirements, shall include good faith efforts to:
- (a) Determine the extent to which minorities and women are underutilized in major categories;
- (b) Identify and eliminate the specific causes of the underutilization;
- (c) Identify and eliminate all employment practices that have an adverse impact on minorities, women, and others protected by applicable law and the relationship of which to job performance has not been clearly established;
- (d) Rely exclusively on practices that are based on merits and other valid job related criteria;
- (e) Develop, substantial applicant pools of validly qualified minorities and women, special recruitment efforts, and

- other measures to insure that sufficient numbers of these groups are included to help reduce their underutilization;
- (f) Develop, through special recruitment efforts and other measures, applicant pools in which handicapped persons are represented equitably;
 - (g) Project goals and timetables to include estimates of the representation of minorities and women likely to result from the operation of this affirmative action plan; and
 - (h) Establish organizational structures and monitoring systems that will ensure effective operation of its goals, and means for modification of the plan as needed.
- (6) All contracts, leases, or other agreements for materials, supplies, equipment, or, contractual services other than professional that, in the aggregate, exceed ten thousand dollars (\$10,000) in any calendar year shall be awarded in compliance with KRS 424.260 or with KRS 45A.343 to 45A.360, if applicable.
 - (7) Notwithstanding anything to the contrary in this section, the provisions of this section shall apply to every person, firm, corporation, and association that has been awarded contracts, leases, or other agreements as provided by KRS 424.260 or with KRS 45A.343 to 45A.360, if applicable, that, in the aggregate, exceed ten thousand dollars (\$10,000) in any calendar year.
 - (8) Employment opportunities generated directly or indirectly by the government of the consolidated local government shall be equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age. In order to ensure that employment opportunities generated directly or indirectly by the consolidated local government are equally available, contractors and vendors shall be approved as provided by this section prior to the awarding of any contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars (\$10,000) with the consolidated local government.
 - (9) No person, firm, corporation, or association shall be awarded a contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars (\$10,000) until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
 - (10) No officer, employee, or agent of the consolidated local government shall accept a contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars (\$10,000) with the consolidated local government until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
 - (11) All persons, firms, corporations, or associations seeking to bid on contracts, leases, or other agreements that require an expenditure exceeding ten thousand dollars (\$10,000) with the consolidated local government shall submit a request for prequalification as an eligible contractor, pursuant to the procedures and requirements enacted by ordinance by the consolidated local government.
 - (12) The consolidated local government shall make available a list of all bidders who have been prequalified and shall distribute the list to the appropriate purchasing officers, employees, or agents of the consolidated local government.
 - (13) Any person, firm, corporation, or association that submits an otherwise qualified bid for a contract, lease, or other agreement pursuant to the provisions of KRS 424.260, but that has not prequalified pursuant to this section, may be approved by the consolidated local government as provided by this section. Any person, firm, or corporation that is approved by the consolidated local government shall thereafter be qualified and considered eligible for award for a contract, lease, or other agreement.
 - (14) The consolidated local government shall prequalify persons, firms, corporations, and associations seeking a contract, lease, or other agreement that requires an expenditure exceeding ten thousand dollars (\$10,000) with the consolidated local government if on an analysis of the workforce of that entity the consolidated local government determines that:
 - (a) The entity is not deficient in the utilization of minority groups or women;
 - (b) The entity has an acceptable, bona fide affirmative action plan;
 - (c) The entity is a small business that employs ten (10) or fewer individuals;
 - (d) The entity has a federally approved affirmative action program; or
 - (e) The consolidated local government has made a finding based on other reasonable criteria, and after consideration of the provisions of 41 C.F.R. 60-2, determines the entity does not require an affirmative action plan.
 - (15) An acceptable affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include:
 - (a) An analysis of the areas of the entity's workforce within which it is deficient in the utilization of minority groups and women; and
 - (b) Timetables to which the entity's good faith efforts shall be directed to correct the deficiencies and to achieve

prompt and full utilization of minorities and women at all levels and in all segments of its workforce where deficiencies exist.

- (16) A bona fide affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include a set of specific and result-oriented procedures, goals, and timetables to which an entity commits itself to apply every good faith effort in order to achieve equal employment opportunity. Procedures without effort to make them work are meaningless and effort undirected by specific and meaningful procedures is inadequate.
- (17) In reviewing an affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government, the consolidated local government shall be guided by the relevant provisions of 41 C.F.R. 60-2 which outlines the requirements of affirmative action plans for federal contractors and vendors.
- (18) The consolidated local government shall use its best efforts, directly and through contracting agencies, other interested federal, state, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work pursuant to contracts, leases, and agreements that are the subject matter of this section or any agency referring workers or providing or supervising apprenticeship or training for or in the course of this work to cooperate in the implementation of the purposes of this section.
- (19) The consolidated local government on its own motion or on motion of any interested party shall cause hearings as it deems necessary for compliance or enforcement of this section.
- (20) The consolidated local government shall hold a hearing prior to imposing or recommending the imposition of penalties and sanctions for violation of this section. No penalty that would prohibit any contractor from obtaining future contracts under this section shall be made without affording the contractor an opportunity for a hearing.
- (21) Notice of any final decision or determination of the consolidated local government that affects the running of time for taking an appeal shall be mailed to all parties in the matter, including the proposed contractor, lessor or other party, and the affected local government offices.
- (22) The consolidated local government shall establish an affirmative action appeals board for purposes of hearing appeals from any final decision relating to matters pertaining to this section. The board shall be composed of the county attorney, or his or her designee, the council president of the consolidated local government, or his or her designee, and a representative of the financial department of the consolidated local government, or his or her designee.
- (23) Any appeal from a decision of the consolidated local government shall be hand-delivered or mailed by certified mail to the affirmative action appeals board not later than thirty (30) days from the date of the local government's decision. The appeal shall set forth the grounds for the appeal. The appeals board shall notify all parties in writing of the time and place of a hearing. The hearing committee may issue subpoenas for any witnesses requested by either of the parties or in the appeals board's opinion necessary to the proper disposition of the matter to be heard. All parties shall be allowed legal representation, witnesses may be cross-examined, and the proceeding shall be recorded. The local government shall transmit, within ten (10) days after receipt of notice of appeal, all the original papers in action to the appeals board.
- (24) The appeals board shall have the power to require the contractor to furnish all necessary records and give testimony as to enable the board to render a fair and competent decision. The duty of the board shall be to review all records, hear all testimonies of witnesses, and determine whether the decision of the local government was correct. The decision of the appeals board shall be final. The decision of the appeals board shall be transmitted in writing to the appropriate offices of the local government for implementation and shall set forth specifically its findings of fact and conclusions relative to its determination. The administration of sanctions and penalties in accordance with that determination shall be the duty of the appropriate department or contracting agency of the consolidated local government.
- (25) (a) On request of the adversely affected party the appeals board may, on terms as are just, relieve a party from its final order of determination on the following grounds:
 - 1. Mistake, inadvertence, surprise, or excusable neglect;
 - 2. Newly discovered evidence that by due diligence could not have been discovered in time for the hearing;
 - 3. Perjury or falsified evidence; or
 - 4. Fraud affecting the proceedings other than perjury or falsified evidence.

(b) The request shall be made within thirty (30) days after notification of the appeals board's final determination. A request under this subsection does not affect the finality of the order or determination or suspend its operation.
- (26) In accordance with the enforcement provisions of this section, the consolidated local government may cancel, terminate, suspend, or cause to be canceled, terminated, or suspended, any contract, lease, or agreement that is the subject matter of this section for failure of the contractor or vendor to comply. Contracts, leases, and agreements may be canceled, terminated, or suspended absolutely or continuance of contracts, leases, and agreements may be conditioned on a program for future compliance as approved by the consolidated local government.
- (27) Any contracting agency shall refrain from entering into further contracts or extensions or other modifications of existing contracts, with any noncomplying contractor, until the contractor has established and will carry out personnel

and employment policies in compliance with the provisions of this section.

- (28) Whenever the consolidated local government makes a determination regarding noncompliance by a contractor pursuant to this section, it shall promptly notify the appropriate contracting agency and other affected local government agencies and offices of the action recommended. The contracting agency shall take the action recommended and shall report the results of that action to the consolidated local government.
- (29) If the appeals board shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this order or submits a program for compliance acceptable to the consolidated local government.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) All offices provided for in Section 99 of the Constitution of Kentucky shall remain in existence upon the consolidation of a city of the first class with its county. However, all existing powers and duties of these offices shall be assigned to the consolidated local government. To the extent permitted by the Constitution of Kentucky, the office of county judge/executive, justices of the peace, and county commissioners may be statutorily limited in a consolidated local government.
- (2) Nothing in Sections 1 to 19 of this Act shall alter or affect the election or term of any county court clerk, county attorney, sheriff, jailer, coroner, surveyor, or assessor. Nor shall any provision of Sections 1 to 19 of this Act be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the consolidated local government.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The tax structure, tax rates, and level of services in effect in the city of the first class and its county upon the adoption of a consolidated local government shall remain in effect after the adoption of the consolidated local government and shall remain the same until changed by the newly elected consolidated local government council.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of Sections 1 to 19 of this Act or any subsequent enactment of a general nature of the General Assembly of the Commonwealth of Kentucky, a consolidated local government shall not levy any tax on real property at a rate or rates in excess of that allowed by KRS 68.245 and KRS 132.027. The limitations in those statutes shall apply to the consolidated local government in the same manner as applied to all other counties and cities.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Any cooperative compact in existence in a county containing a city of the first class on the effective date of this Act shall remain in effect unless a consolidated local government is adopted as provided in Sections 1 to 19 of this Act. The terms and agreements within a cooperative compact shall remain the same and in effect until the installation of the officers of the newly consolidated local government. If the voters in a county containing a city of the first class fail to approve a proposal for a consolidated local government then the cooperative compact shall remain in effect for the duration of the terms of the compact agreement.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The salary of the mayor of a newly consolidated local government created by the provisions of Sections 1 to 19 of this Act shall be the same as that allowed for a mayor of a city of the first class as provided by Section 246 of the Kentucky Constitution.

SECTION 16. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) The salary of the members of the legislative council of a newly consolidated local government created by the provisions of Sections 1 to 19 of this Act shall be eighty percent (80%) of that amount that is permitted for county commissioners on the effective date of this Act as provided by Section 246 of the Kentucky Constitution. In order to equate the compensation of legislative council members with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.
- (2) Each legislative council member may hire one (1) full-time staff person.

SECTION 17. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The Auditor of Public Accounts, in order to insure the authorized, legal, regular, and safe handling, administration, or expenditure of public funds, shall annually audit the funds budgeted by any consolidated local government in a county containing a city of the first class. Actions taken by the Auditor and the local government for compliance with this section

shall be the same as those required by KRS Chapters 43 and 424 and by KRS 43.070, 64.810, 64.820, 64.830, 64.840, and 64.850 relating to financial administration and the responsibilities of the handling of public funds.

SECTION 18. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) After certification of the election at which the voters of a county containing a city of the first class have approved the consolidation of a city of the first class and the county and after receipt of the 2000 census data, a plan to divide the county into twenty-six (26) legislative council districts shall be submitted to the fiscal court in order to establish the initial boundaries of the legislative council districts for the newly consolidated government.
- (2) The district plan for the legislative council shall be prepared and submitted by representatives of a department of geography from the largest public university that exists within the county.
- (3) Upon submission of the plan that lays out the initial boundaries of the legislative council districts, the fiscal court shall approve the plan within thirty (30) days as submitted and without amendment.
- (4) The boundaries of the districts shall be drawn so that the districts are compact and contiguous, and the population of each district shall be as nearly equal as is reasonably possible.
- (5) Thereafter, and not less than every ten (10) years, the legislative council shall initiate reapportionment proceedings in May of the first year following the decennial census of the United States to review the districts and reapportion them if necessary.
- (6) To initiate a reapportionment proceeding, the legislative council shall publish notice of the planned reapportionment in accordance with KRS Chapter 424.
- (7) In no event shall districts be reapportioned during the period from thirty (30) days prior to the last date for filing for candidacy for local government office as provided in KRS 118.165 and the regular election for candidates for local government office.
- (8) Precinct lines shall be drawn when necessary in accordance with the provisions of law. No precinct shall be in more than one (1) district.
- (9) Within twenty (20) days of the establishment of the districts by the legislative council, any registered voter of the county may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the legislative council has violated the provisions of this section, remand the matter to the legislative council. The Circuit Court, in its discretion, may allow the prevailing party, other than the legislative council, a reasonable attorney's fee, to be paid from the treasury of the local government, as part of the costs.

SECTION 19. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) In every county containing a city of the first class in existence on the effective date of this Act, a question regarding the consolidation of the city of the first class and their county as provided by Sections 1 to 19 of this Act shall be submitted to the voters of the county at the regular election to be held in November of 2000. The election shall be governed by the general election laws of the Commonwealth. Approval of the proposal shall require a simple majority of those voting on the question.
- (2) The question to be submitted to the voters shall read as follows:

"Are you in favor of combining the City of and County into a single government with a mayor and legislative council, keeping all other cities, fire protection districts and special districts in existence?"

Section 20. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

State Government: **HB 562, HB 635, HB 692, HB 694, HJR 99**

Judiciary: **HB 549, HB 654, HB 655, HB 526, HB 439**

The following Bill has been withdrawn from Committee consideration:

Judiciary: **HB 246**

Calendar

HB 296, HB 345, HB 474, HB 1, HB 123, HB 515, HB 538, HB 540, HB 561, HB 610, HCR 47, HJR 61, and SCR 20 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title

only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 123, HB 345, HB 515, HB 610, and HCR 47** have been posted for passage in the Orders of the Day for February 17, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 386**

Orders of the Day

HB 384, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of Committee Amendment No. 1 to **HB 384**. Agreed.

Representative Buckingham moved the adoption of Floor Amendment No. 2 to **HB 384**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **HB 384**. Agreed.

Representative Buckingham moved that **HB 384**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 3**. (See February 16, 2000 roll call on **HB 384** - Appendix.)

HB 384, as amended, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 384**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 477, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 477**. Agreed.

Representative Geveden moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 477**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 477**. Agreed.

Representative Geveden moved that **HB 477**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 12**. (See February 16, 2000 roll call on **HB 477** - Appendix.)

HB 477, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 477**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 203 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marcotte moved that **HB 203** be passed.

On the roll call the vote was: **Yeas 85, Nays 11.** (See , 2000 roll call on **HB 203** - Appendix.)

HB 203 was passed and the title agreed to.

Representative Marcotte moved that the vote by which **HB 203** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 56, HB 90, HB 109, HB 137, and HB 205** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time: 3:35 p.m.)

Orders of the Day (Continued)

HB 209, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Floor Amendment No. 1 to **HB 209**. Agreed.

Representative Stacy moved that **HB 209**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 16, 2000 roll call on **HB 209** - Appendix.)

HB 209, as amended, was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 209**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 244, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute No. 1 to **HB 244**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 1 to **HB 244**. Agreed.

Representative Callahan moved that **HB 244**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 84, Nays 12.** (See February 16, 2000 roll call on **HB 244** - Appendix.)

HB 244, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 244**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of the Committee Substitute to **HB 334**. Agreed.

Representative J. Adams moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 334**. Agreed.

Representative J. Adams moved that **HB 334**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 4.** (See February 16, 2000 roll call on **HB 334** - Appendix.)

HB 334, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 334**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 501, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Committee Amendment No. 1 to **HB 501**. Agreed.

Representative Thomas moved that **HB 501**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 16, 2000 roll call on **HB 501** - Appendix.)

HB 501, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 501**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 402, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 402**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 2 to **HB 402**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 3 to **HB 402**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 4 to **HB 402**. Agreed.

Representative Barrows moved that **HB 402**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 2**. (See February 16, 2000 roll call on **HB 402** - Appendix.)

HB 402, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 402**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 130, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Substitute to **HB 130**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 130**. Agreed.

Representative Vincent moved that **HB 130**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See February 16, 2000 roll call on **HB 130** - Appendix.)

HB 130, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 130**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 47, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 47**. Agreed.

Representative Wilkey moved that **HB 47**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 16, 2000 roll call on **HB 47** - Appendix.)

HB 47, by way of Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 47**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 410**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 410**. Agreed.

Representative Thomas moved that **HB 410**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 84, Nays 7**. (See February 16, 2000 roll call on **HB 410** - Appendix.)

HB 410, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 410**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 556 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 556** be passed.

On the roll call the vote was: **Yeas 91, Nays 5**. (See February 16, 2000 roll call on **HB 556** - Appendix.)

HB 556 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 556** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended that when the house does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that the rules be suspended that when the house adjourns it does so until 2:00 p.m., February 17, 2000. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 719, by Representative Collins: AN ACT relating to collection of taxes.

HB 720, by Representative Collins: AN ACT relating to consumer protection.

HB 721, by Representative Geveden: AN ACT relating to state officers and employees.

HB 722, by Representatives J. Turner, Childers, Cornett, Alexander, Stewart, Rader, Colter, Siler, Anderson, Vincent, Feeley, Hoover, Tapp, Ausmus, Nesler, Westrom, Webb, C. Belcher, Gray, Palumbo, Bowling, Draud, Upchurch, D. D. Butler, L. Belcher, Haydon, Heleringer, Collins, Cherry, R. Adams, and Branham: AN ACT relating to fish and wildlife.

HB 723, by Representatives A. Arnold and Worthington: AN ACT relating to life insurance for state employees.

HB 724, by Representatives A. Arnold, C. Belcher, L. Clark, Marzian, and Colter: AN ACT proposing an amendment to Sections 30 and 31 of the Constitution of Kentucky relating to elections of the General Assembly.

HB 725, by Representative A. Arnold: AN ACT relating to recanvass procedures for elections.

HB 726, by Representative A. Arnold: AN ACT relating to the creation of an emergency services board.

HB 727, by Representative Lindsay: AN ACT relating to state government.

HB 728, by Representative Lindsay: AN ACT relating to state government.

HB 729, by Representative Lindsay: AN ACT relating to state government.

HB 730, by Representative Anderson: AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

HB 731, by Representative Haydon: AN ACT relating to the adjutant general.

HB 732, by Representatives Gray, P. Clark, Westrom, Bruce, Collins, Bowling, Draud, Upchurch, Nesler, Stumbo, Palumbo, D. Butler, J. Turner, J. Arnold, Callahan, Damron, C. Belcher, Buckingham, Palmer, Ausmus, Tapp, Stacy, Alexander, Childers, Bather, Thomas, Fischer, Anderson, T. Turner, Barrows, Cornett, Weaver, Wilkey, R. Adams, Sims, Haydon, Branham, Horlander, Simpson, D. D. Butler, L. Belcher, Miller, Siler, Adkins, Webb, Westrom, Burch, J. Adams, Graham, Richards, Stewart, Hoffman, Crall, Reinhardt, Cherry, L. Clark, Nunn, Colter, Kerr, Cox, Rader, Marcotte, Jenkins, Riggs, Johns, McKee, Marzian, and Ballard: AN ACT relating to the Law Enforcement Foundation Program Fund.

HB 733, by Representatives Geveden, Cave, Palumbo, Palmer, and Rasche: AN ACT relating to professional engineers and land surveyors.

HB 734, by Representative Damron: AN ACT relating to the Court of Justice.

HB 735, by Representative Damron: AN ACT relating to public safety.

HB 736, by Representatives P. Clark and Horlander: AN ACT relating to railroad employees.

HB 737, by Representatives Feeley, Draud, Bowling, Haydon, Moberly, Marzian, Cornett, Jenkins, Tapp, Upchurch, DeWeese, Crimm, Heleringer, Branham, Geveden, Westrom, Webb, Rader, Marcotte, Stein, A. Arnold, Crall, Riner, Ratliff, Ford, Treesh, Wilkey, Baugh, Vincent, Kerr, Ausmus, Fischer, Anderson, Weaver, and Coleman: AN ACT relating to retirement.

HB 738, by Representative Haydon: AN ACT relating to U-Drive-It permit holders.

HB 739, by Representatives Rasche, Moberly, Miller, and Draud: AN ACT relating to retired teachers and declaring an emergency.

HR 105, by Representative A. Arnold: A RESOLUTION adjourning the House of Representatives in honor of the American Red Cross of Kentucky.

HR 106, by Representative Barrows: A RESOLUTION urging all banks operating in the Commonwealth of Kentucky to waive any fees for cashing any check in payment for jury service in this Commonwealth.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 201, HB 649, HB 662**

Education: **HB 622, HB 292, HB 420, HB 623, HB 681, HB 382, HB 668**

Motions, Petitions, and Communications (Continued)

Representative Baugh moved the adoption of the following **Legislative Citation No. 62**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of H. Stanford Ray and expresses deepest sympathy to his loving wife, Diana Noel Ray; his beloved sons, Jim Ray and Charlie Ray; and his cherished grandchildren, Sara, Taylor and Cooper Ray. A native of Logan County, he was the beloved son of the late H. Stanford and Corinne Rogers Ray. He served as a Ranger in the U.S. Army during the Korean War and was a member of the First Baptist church and the Southern Kentucky Past Finders. Inasmuch as H. Stanford Ray is remembered this day as an outstanding citizen whose presence will long be cherished and sorely missed by those whose lives were touched by his kind countenance, the members of this august body do solemnly join with Representative Sheldon Baugh in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this sixteenth day of February, in the year of our Lord, two thousand

Legislative Citation No. 62 was adopted without objection.

Representative Cave moved that House Floor Amendment No. 2 to **SB 40** be withdrawn. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Alexander moved that he be recorded as voting "yea" on **HB 209**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cox moved that his vote be changed from "nay" to "yea" on **HB 402**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bather moved that he be recorded as voting "yea" on **HB 130**, **HB 402**, and **HB 501**. Agreed.

Representative D. D. Butler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative D. D. Butler moved that his vote be changed from "yea" to "nay" on **HB 334**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that his vote be changed from "nay" to "yea" on **HB 130**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crall moved that he be recorded as voting "nay" on motions to **Adjourn** on February 9, 2000, February 10, 2000, February 14, 2000, and February 16, 2000. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 406**, by Representative Collins:

On page 1, line 15, after the words "located in", by inserting the words "Johnson, Martin, Lawrence, Elliott, Boyd, Morgan, or"; and

On page 1, line 15, after "Jefferson", by deleting the word "County", and inserting in lieu thereof "Counties".

Floor Amendment No. 4 to **HB 397**, by Representative Bruce:

On page 3, after line 15, by adding the following:

"Section 3. KRS 70.542 is amended to read as follows:

- (1) Except in counties containing a city of the first class, or counties containing an urban-county government, the fiscal court of any county in which there is an established county police force pursuant to KRS 70.540, may provide for the establishment or abolishment of an auxiliary county police force to perform duties within the county upon such terms and conditions as the fiscal court deems necessary and proper. The fiscal court shall prescribe the number of members comprising such auxiliary county police force, and prescribe rules and regulations that shall govern the powers and duties of the members of such auxiliary county police force, unless otherwise provided in subsection (2) of this section.
- (2) A member of an auxiliary county police force shall:
 - (a) Be appointed by the county judge/executive and serve at his pleasure;
 - (b) Be answerable and under the direction of the county judge/executive, except when the county judge/executive delegates such authority to the chief officer of the county police force;
 - (c) Not receive any compensation or benefits for his time or service, except that the fiscal court may provide for the payment of any reasonable and necessary expenses incurred by a member of the auxiliary county police force in the conduct of his official duties; ~~and~~
 - (d) If not certified pursuant to KRS 15.380 to 15.402, successfully complete, within six (6) months of appointment, not fewer than eighty (80) hours of training in a program approved by the Kentucky Law Enforcement Council and dealing comprehensively with the subjects of criminal law and the law of arrest, search, and seizure; and
 - (e) Be appointed regardless of race, color, creed or position.
- (3) Before any person is appointed as a member of an auxiliary county police force, he shall give bond to the county judge/executive in an amount as prescribed by the fiscal court. The fiscal court may authorize the premium therefor to be paid out of the general funds of the county."

Floor Amendment No. 1 to the Committee Substitute to **HB 474**, by Representative Nunn:

On page 2, line 17, after "(e)", by deleting "As of January 1, 2001,";

On page 2 lines 18 and 19, after "counseling," by removing the brackets and strikethroughs from "two thousand (2,000) hours of";

On page 2, line 27, after ".", by inserting "After January 1, 2001, the board shall issue certificates only to applicants who have obtained all three thousand (3000) hours of experience since obtaining the master's degree."

Floor Amendment No. 1 to **HB 123**, by Representative Crall:

On page 1, between the bill title and the first "WHEREAS" clause, by inserting:

"WHEREAS, since being discovered in Kentucky by Dr. Thomas Walker in 1750, coal has become an essential part of Kentucky's heritage and economy; and

WHEREAS, Kentucky coal provides a critical source of energy for electric generating plants in Kentucky and across the nation; and"; and

On page 1, between the second and third "WHEREAS" clauses, by inserting:

"WHEREAS, deposits of limestone rock were laid down in warm, shallow seas over what is now Kentucky some 460 to 330 million years ago; and

WHEREAS, limestone rock is an important resource in Kentucky, providing a plentiful supply of crushed stone used in construction, agriculture, and a variety of other uses; and

WHEREAS, historic rock fences built of unmortared limestone rocks are the hallmarks of central Kentucky's beautiful landscape; and"; and

On page 1, within the last "WHEREAS" clause, following "state", by inserting "fossil fuel, mineral, and"; and

On page 1, between the enacting clause and line 1, by inserting:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Kentucky coal is named and designated as the official state fossil fuel.

Section 2. KRS 2.094 is amended to read as follows:

Agate~~Coal~~ is named and designated as the official mineral of Kentucky."; and

On page 1, line 1, by deleting "1" and inserting "3" in lieu thereof; and

On page 1, line 3, by deleting "agate" and inserting "limestone" in lieu thereof.

Floor Amendment No. 2 to **HB 123**, by Representative Crall:

On page 1, between the bill title and the first "WHEREAS" clause, by inserting:

"WHEREAS, since being discovered in Kentucky by Dr. Thomas Walker in 1750, coal has become an essential part of Kentucky's heritage and economy; and

WHEREAS, Kentucky coal provides a critical source of energy for electric generating plants in Kentucky and across the nation; and"; and

On page 1, between the second and third "WHEREAS" clauses, by inserting:

"WHEREAS, deposits of limestone rock were laid down in warm, shallow seas over what is now Kentucky some 460 to 330 million years ago; and

WHEREAS, limestone rock is an important resource in Kentucky, providing a plentiful supply of crushed stone used in construction, agriculture, and a variety of other uses; and

WHEREAS, historic rock fences built of unmortared limestone rocks are the hallmarks of central Kentucky's beautiful landscape; and"; and

On page 1, within the last "WHEREAS" clause, following "state", by inserting "hydrofluorocarbon, mineral, and"; and

On page 1, between the enacting clause and line 1, by inserting:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Kentucky coal is named and designated as the official hydrofluorocarbon of Kentucky.

Section 2. KRS 2.094 is amended to read as follows:

Agate~~Coal~~ is named and designated as the official mineral of Kentucky."; and

On page 1, line 1, by deleting "1" and inserting "3" in lieu thereof; and

On page 1, line 3, by deleting "agate" and inserting "limestone" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 1**, by Representative Anderson:

On page 1 and continuing through page 41, by deleting Sections 1 to 36 in their entirety, and inserting the following in

lieu thereof:

"Section 1. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;

- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
 - (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
 - 1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as

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picnic areas, parks, and campgrounds;

2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
- (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
- (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- (36) "NPDES" means National Pollutant Discharge Elimination System;
- (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
- (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
- (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
- (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;

- (45) "Universal collection" means a municipal solid waste curbside or end-of-driveway collection system which is established by ordinance and approved by the cabinet and requires participation~~access for~~ each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, or charter county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, or franchise.
- (2) The county, urban-county government, or charter county government may enter into agreements, contracts, and other arrangements, including agreements for the cooperative or joint administration of universal collection, with municipalities, corporations, public and private agencies, associations, organizations, or individuals as necessary to maintain and operate a system of universal collection.
- (3) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recovered material.
- (4) A commercial or industrial entity that transports or contracts for the transport of solid waste it generates or that operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government. A commercial or industrial entity that contracts for the transport of solid waste may be required to periodically show proof that its solid waste is disposed of properly as determined by the county, urban-county government, or charter county government. The service provider of universal collection for a commercial or industrial entity shall comply with any county reporting requirements that may be established under Section 3 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection is operated and enforced, including the method of billing and collecting fees and delinquent fees, and the method for tracking solid waste generators moving into the county.
- (2) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, number of households served, volume of solid waste collected, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.
- (3) The county, urban-county government, or charter county government shall:
 - (a) Require and maintain reports from all service providers of universal collection on households or businesses served, volume of solid waste collected, and destination of solid waste; and
 - (b) Require and maintain reports from all service providers of curbside recycling as well as all recycling facilities, including scrap processors engaged in the collection and recycling of recovered materials, on the households

served, volume of recovered material collected, and destination of recovered material.

- (4) The information required in subsection (3) of this section shall remain confidential and for the exclusive use of the county, urban-county government, or charter county government in reporting aggregate numbers of solid waste collection activities to the state.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A county, urban-county government, or charter county government shall be responsible for collecting delinquent solid waste pick-up fees and for insuring that collection of solid waste continues when pick-up fees are not paid.
- (2) A county, urban-county government, or charter county government may establish reduced solid waste pick-up fees for low-income households.
- (3) A county, urban-county government, or charter county government may establish charges and penalties for nonpayment of solid waste pick-up fees to defray administrative costs of fee collection.
- (4) In addition to the remedy established in KRS 109.310 for the collection of delinquent solid waste pick-up fees, the county, urban-county government, or charter county government may place a lien upon all motor vehicles owned or leased by a person who fails or refuses to pay the solid waste pick-up fee for the amount of the fee and may take and retain possession thereof until the amount of the fee and all charges and penalties in connection therewith shall have been paid.
- (5) A county, urban-county government, or charter county government may provide a list of names of individuals who fail or refuse to pay solid waste pick-up fees to the Transportation Cabinet on a monthly basis. The Transportation Cabinet shall provide the list of names and appropriate information to the Department of Information Systems for inclusion in the automated vehicle information system database. Any motor vehicle registered to such an individual shall not have its registration renewed until proof of payment of solid waste pick-up fees has been presented to the county clerk. Upon proof of payment and payment of reinstatement fee according to Section 7 of this Act, the county clerk shall remove the information from the AVIS database and immediately renew the vehicle registration.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Commonwealth shall not endorse projects under the Kentucky intergovernmental review process for any county, urban-county government, or charter county government that fails to implement and maintain a successful universal collection program as determined by the cabinet.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish reporting requirements and standards for a county, urban-county government, or charter county government on the implementation and maintenance of universal collection.

Section 7. KRS 186.180 is amended to read as follows:

- (1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.
- (2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars (\$3) for each plate and a fee of three dollars (\$3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate.

The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

- (3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars (\$5) of which the clerk shall be entitled to three dollars (\$3) and the cabinet shall be entitled to two dollars (\$2).
- (4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of twenty dollars (\$20), which shall be equally divided between the county clerk and the cabinet.
- (5) If the owner's registration is not renewed as a result of the provisions set forth in Section 4 of this Act, the owner may have his or her registration renewed by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof that solid waste pick-up fees have been paid. The owner shall pay to the clerk a fee of ten dollars (\$10), which shall be equally divided between the county clerk and the cabinet.

SECTION 8. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) The Department of Vehicle Regulation shall provide and receive information on the nonpayment of solid waste pick-up fees in accordance with Section 4 of this Act. The department shall provide appropriate delinquent fee information to the Department of Information Systems for inclusion in the AVIS database.
- (2) A motor vehicle registered to a person who is listed in the AVIS database as being delinquent in the payment of solid waste pick-up fees shall not have the registration of the motor vehicle renewed until the person presents proof of payment to the county clerk and pays the reinstatement fee required by Section 7 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

- (1) The Transportation Cabinet may solicit and receive grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used for the Adopt-a-Highway litter reduction program.
- (2) Moneys received under this section shall be deposited in the State Treasury and credited to the Transportation Cabinet solely for use by the Adopt-a-Highway Program.

Section 10. The following KRS sections are repealed:

- 224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion.
- 224.10-660 Kentucky Recycling and Marketing Assistance Program -- Advisory committee."

Floor Amendment No. 2 to the Committee Substitute to **HB 1**, by Representative Anderson:

On page 1 and continuing through page 41, by deleting Sections 1 to 36 in their entirety, and inserting the following in lieu thereof:

"Section 1. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

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- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of

recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;

- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
 - (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
 - 1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;
 - 2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 - 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 - 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
 - (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard

to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
- (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- (36) "NPDES" means National Pollutant Discharge Elimination System;
- (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
- (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
- (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
- (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;
- (45) "Universal collection" means a municipal solid waste curbside or end-of-driveway collection system which is established by ordinance and approved by the cabinet and requires participation~~access for~~ each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and

having a brightness of less than sixty (60);

- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, or charter county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, or franchise.
- (2) The county, urban-county government, or charter county government may enter into agreements, contracts, and other arrangements, including agreements for the cooperative or joint administration of universal collection, with municipalities, corporations, public and private agencies, associations, organizations, or individuals as necessary to maintain and operate a system of universal collection.
- (3) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recovered material.
- (4) A commercial or industrial entity that transports or contracts for the transport of solid waste it generates or that operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government. A commercial or industrial entity that contracts for the transport of solid waste may be required to periodically show proof that its solid waste is disposed of properly as determined by the county, urban-county government, or charter county government. The service provider of universal collection for a commercial or industrial entity shall comply with any county reporting requirements that may be established under Section 3 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection is operated and enforced, including the method of billing and collecting fees and delinquent fees, and the method for tracking solid waste generators moving into the county.
- (2) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, number of households served, volume of solid waste collected, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.
- (3) The county, urban-county government, or charter county government shall:
 - (a) Require and maintain reports from all service providers of universal collection on households or businesses served, volume of solid waste collected, and destination of solid waste; and
 - (b) Require and maintain reports from all service providers of curbside recycling as well as all recycling facilities, including scrap processors engaged in the collection and recycling of recovered materials, on the households served, volume of recovered material collected, and destination of recovered material.
- (4) The information required in subsection (3) of this section shall remain confidential and for the exclusive use of the county, urban-county government, or charter county government in reporting aggregate numbers of solid waste collection activities to the state.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A county, urban-county government, or charter county government shall be responsible for collecting delinquent solid waste pick-up fees and for insuring that collection of solid waste continues when pick-up fees are not paid.
- (2) A county, urban-county government, or charter county government may establish reduced solid waste pick-up fees for low-income households.
- (3) A county, urban-county government, or charter county government may establish charges and penalties for nonpayment of solid waste pick-up fees to defray administrative costs of fee collection.
- (4) In addition to the remedy established in KRS 109.310 for the collection of delinquent solid waste pick-up fees, the county, urban-county government, or charter county government may place a lien upon all motor vehicles owned or leased by a person who fails or refuses to pay the solid waste pick-up fee for the amount of the fee and may take and

retain possession thereof until the amount of the fee and all charges and penalties in connection therewith shall have been paid.

- (5) A county, urban-county government, or charter county government may provide a list of names of individuals who fail or refuse to pay solid waste pick-up fees to the Transportation Cabinet on a monthly basis. The Transportation Cabinet shall provide the list of names and appropriate information to the Department of Information Systems for inclusion in the automated vehicle information system database. Any motor vehicle registered to such an individual shall not have its registration renewed until proof of payment of solid waste pick-up fees has been presented to the county clerk. Upon proof of payment and payment of reinstatement fee according to Section 7 of this Act, the county clerk shall remove the information from the AVIS database and immediately renew the vehicle registration.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Commonwealth shall not endorse projects under the Kentucky intergovernmental review process for any county, urban-county government, or charter county government that fails to implement and maintain a successful universal collection program as determined by the cabinet.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish reporting requirements and standards for a county, urban-county government, or charter county government on the implementation and maintenance of universal collection.

Section 7. KRS 186.180 is amended to read as follows:

- (1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.
- (2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars (\$3) for each plate and a fee of three dollars (\$3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.
- (3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars (\$5) of which the clerk shall be entitled to three dollars (\$3) and the cabinet shall be entitled to two dollars (\$2).
- (4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of twenty dollars (\$20), which shall be equally divided between the county clerk and the cabinet.
- (5) If the owner's registration is not renewed as a result of the provisions set forth in Section 4 of this Act, the owner may

have his or her registration renewed by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof that solid waste pick-up fees have been paid. The owner shall pay to the clerk a fee of ten dollars (\$10), which shall be equally divided between the county clerk and the cabinet.

SECTION 8. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) The Department of Vehicle Regulation shall provide and receive information on the nonpayment of solid waste pick-up fees in accordance with Section 4 of this Act. The department shall provide appropriate delinquent fee information to the Department of Information Systems for inclusion in the AVIS database.
- (2) A motor vehicle registered to a person who is listed in the AVIS database as being delinquent in the payment of solid waste pick-up fees shall not have the registration of the motor vehicle renewed until the person presents proof of payment to the county clerk and pays the reinstatement fee required by Section 7 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

- (1) The Transportation Cabinet may solicit and receive grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used for the Adopt-a-Highway litter reduction program.
- (2) Moneys received under this section shall be deposited in the State Treasury and credited to the Transportation Cabinet solely for use by the Adopt-a-Highway Program.

Section 10. The following KRS sections are repealed:

224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion.

224.10-660 Kentucky Recycling and Marketing Assistance Program -- Advisory committee.

Section 11. The Solid Waste and Recycling Task Force is created and shall be composed of the following: five (5) members of the General Assembly selected by the Legislative Research Commission, two (2) of whom shall be members of the Interim Joint Committee on Agriculture and Natural Resources; a representative of the Kentucky Council of Area Development Districts; a representative of the Kentucky League of Cities; a representative of the Kentucky Association of Counties; a representative of the Department for Local Government; a representative of the Natural Resources and Environmental Protection Cabinet; a representative of the Adopt-a-Highway District Coordinators; a representative of the Kentucky Environmental Education Council; a representative of the Solid Waste Coordinators of Kentucky; a representative of the Kentucky Farm Bureau Federation; a representative of the Kentucky Retail Federation; a representative of the Kentucky Bottler's Association; a representative of the Kentucky Grocers Association; a representative of the League of Kentucky Sportsmen; a representative of the Kentucky Urban Affairs Council; a representative of the Kentucky Resources Council; and a representative of the Department of Corrections. The Legislative Research Commission shall select the chair for this task force.

Section 12. The Solid Waste and Recycling Task Force created in Section 11 of this Act shall begin with the proposition that litter and illegal dumping are problems in the Commonwealth, and the purpose of the task force shall be to develop policy recommendations to solve these two (2) problems, and to recommend necessary funding mechanisms to address these problems. The task force shall also recommend policies to promote recycling of recovered materials, including recommendations for funding mechanisms to provide the necessary recycling infrastructure and ways to promote market development. The task force may examine specific issues regarding the implementation or mechanics of container deposit legislation raised by the Special Task Force on Container Deposit that was created during the 1998 Regular Session. However, the task force shall not examine or debate the pros and cons of container deposit legislation. The task force shall conclude its review by issuing recommendations to the Legislative Research Commission no later than September 30, 2001.

Section 13. The members of the task force created in Section 11 of this Act shall be reimbursed for expenses incurred to attend task force meetings.

Section 14. Staff services for the task force created in Section 11 of this Act shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 15. Provisions of Sections 11 to 14 of this Act notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Floor Amendment No. 3 to the Committee Substitute to **HB 1**, by Representative Anderson:

On page 1 and continuing through page 41, by deleting Sections 1 to 36 in their entirety, and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

- (1) "Board" means the board of directors of the Kentucky Recycling Cooperative Group;

- (2) "Cabinet" means the Revenue Cabinet;
- (3) "Distribution center" means a recycling facility that is capable of receiving a variety of unprocessed or processed materials from satellite centers and materials recovery facilities, and that stores the material for further processing or for transport to the marketplace;
- (4) "Group" means the Kentucky Recycling Cooperative Group;
- (5) "Local government" means any county, urban-county government, waste management district, city, or charter county government;
- (6) "Participating local government" means a local government entity that joins a region and participates in the Kentucky Recycling Cooperative Group;
- (7) "Executive director" means the executive director of the Kentucky Recycling Cooperative Group, who shall also serve as chief executive officer of the group;
- (8) "Region" means a group of three (3) or more counties combined to form a recycling operation; and
- (9) "Satellite center" means a local government collection site for recovered materials containing minimal equipment that prepares material for transport to a materials recovery facility or distribution center.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created and established a state recycling cooperative program, which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky that shall be a public body corporate and politic to be known as the Kentucky Recycling Cooperative Group. The group shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This group shall perform functions and purposes essential to managing the recycling cooperative program and disbursing moneys from the recycling cooperative fund established in Section 9 of this Act. It is the intent of the General Assembly that the Kentucky Recycling Cooperative Group shall assist regions in establishing a recycling cooperative program whereby participating local governments will be able to operate recycling programs and combine recovered material in order to market that material collectively through the Kentucky Recycling Cooperative Group.
- (2) The existence of the group shall begin upon appointment of the members of the group by the Governor as provided in Section 3 of this Act, which shall occur no later than October 1, 2000.
- (3) Participating local governments shall be eligible to receive grant and other money from the recycling cooperative fund established in Section 9 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The affairs of the group shall be administered by a board of directors composed of fifteen (15) members as follows:
 - (a) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Council of Area Development Districts;
 - (b) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky League of Cities;
 - (c) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Association of Counties;
 - (d) One (1) person appointed by the Governor from the Department for Local Government;
 - (e) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Jailers' Association;
 - (f) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Sheriffs' Association;
 - (g) One (1) person appointed by the Governor, from a list of three (3) persons nominated by Adopt-a-Highway district coordinators;
 - (h) One (1) person appointed by the Governor from the Kentucky Environmental Education Council;
 - (i) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Solid Waste Coordinators of Kentucky;
 - (j) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Farm Bureau Federation;
 - (k) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Retail Federation;
 - (l) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Bottlers' Association;

- (m) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Grocers' Association;
- (n) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Urban Affairs Council; and
- (o) One (1) person appointed by the Governor from the Department of Corrections.
- (2) No member of the board of directors shall knowingly use or attempt to use his or her influence in any manner that involves a substantial conflict between the member's personal or private interest and his or her duties to the group.
- (3) Of the fifteen (15) members identified in paragraphs (a) to (o) of subsection (1) of this section and first appointed, five (5) shall continue in office for terms of one (1) year, five (5) for terms of two (2) years, and five (5) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case in the same manner as originally appointed. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. Members shall elect their own chair.
- (4) Eight (8) members of the group shall constitute a quorum.
- (5) The members of the Kentucky Recycling Cooperative Group shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the group to be paid as an administrative cost of the group.
- (6) The executive director of the group shall be hired by the board of directors. The executive director shall be qualified by training and experience to perform the duties of this office and carry out the purpose of Sections 1 to 9 of this Act and shall hold office at the pleasure of the group. The salary of the director shall be determined by the group. The director shall, upon the advice and consent of the group, employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of Sections 1 to 9 of this Act.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The board of directors shall:
 - (a) Approve, disapprove, amend, or modify the budget, guidelines, and implementation plan recommended by the executive director for the recycling cooperative program;
 - (b) Establish guidelines for counties in the use of fund money utilizing the framework provided by area solid waste management plans as established in KRS 224.43-340;
 - (c) Develop a formula for the distribution of fund money as authorized by subsection (2) of Section 9 of this Act;
 - (d) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out and implement its powers and duties and the operation of the group;
 - (e) Assist in the development and implementation of statewide public education programs for recycling and solid waste reduction;
 - (f) Promote the development of resource recovery research and the development of markets within the Commonwealth of Kentucky for recovered material;
 - (g) Monitor activities and progress achieved in solid waste management and, with the advice of the solid waste industry, make recommendations to the General Assembly on ways to address future trends and needs of litter, open dumps, and recycling. Recommendations shall be provided to the General Assembly by October 1 of each year, beginning October 1, 2001; and
 - (h) Develop and submit an annual report by October 1 of each year, beginning October 1, 2001, to the General Assembly on the activities of the group, the administration of fund moneys, and any recommendations that would improve the recycling cooperative program and marketing of recovered material.
- (2) In all other matters, the board shall advise and make recommendations.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The group shall conduct and administer the recycling cooperative program with a goal of establishing sound recycling operations at a regional level. It shall be the duty of the group, its employees, and the members of the board to provide for the effective operation of the recycling cooperative program which insures efficient use of resources and improvement of regional recycling operations. The group, in pursuit of the attainment of the objectives and purposes of Sections 1 to 9 of this Act, may:
 - (a) Sue and be sued in its corporate name;
 - (b) Adopt a corporate seal and a symbol;
 - (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

- (d) Incur debt in its own name and enter into financing agreements with state agencies of the Commonwealth or with commercial banks;
- (e) Receive and accept grants, contributions of money, property, labor, or other things of value from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation to be used to carry out the functions of the group;
- (f) Acquire or incorporate existing recycling operations into the recycling cooperative program that will further the role of the group;
- (g) Create a nonprofit corporation in accordance with the provisions of KRS 273.161 to 273.390 to act as the instrumentality and constituted authority of the group in the acquisition and financing of any recycling operation; and
- (h) Establish affiliation or brokerage fees, and establish services at cost subject to approval by the board to be used to carry out the functions of the group.

(2) The group shall:

- (a) Implement and carry out the recycling cooperative program in accordance with the provisions of Sections 1 to 9 of this Act and the administrative regulations promulgated by the board or group;
- (b) Distribute money from the recycling cooperative fund as authorized by Section 9 of this Act;
- (c) Submit quarterly and annual reports to the board containing financial statements that include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;
- (d) Keep accurate books, records, and accounts of all entities receiving payments from the recycling cooperative fund;
- (e) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out Sections 1 to 9 of this Act;
- (f) Develop a training program for participating local governments in the recycling cooperative program;
- (g) Act as a state broker for regions seeking to sell recovered material by contracting with processors, secondary material manufacturers, or other brokers;
- (h) Return to the participating local government its portion of money received from the sale of recovered material according to the quantity and type of recovered material and current market value; and
- (i) Develop an economical transportation system for the recovered material to go to material recovery facilities or distribution centers and to market.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall:

- (a) Supervise and administer the recycling cooperative program in accordance with the provisions of Sections 1 to 9 of this Act and the administrative regulations promulgated by the board or group;
- (b) Establish a budget, guidelines, and implementation plan for the group;
- (c) Employ and direct personnel as may be necessary to carry out the purposes of Sections 1 to 9 of this Act;
- (d) Make available for inspection by the board or any member of the board, upon request, all books, records, files, and other information and documents of the director's office and to advise the board and recommend administrative regulations and other matters the director deems necessary and advisable to improve the operation and administration of the recycling cooperative program; and
- (e) Attend meetings of the board or appoint a designee to attend on his or her behalf;

(2) The executive director, with the approval of the board, may amend or modify the budget for the proper operation of the group.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) All money received by the group from tipping fees according to Section 8 of this Act shall be deposited into a recycling cooperative account in the State Treasury known as the "Recycling Cooperative Fund." Moneys in the recycling cooperative account shall not lapse at the close of the state fiscal year.
- (2) Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the recycling cooperative account, and the costs of the audit shall be considered an administrative cost to be borne by the fund. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission, the Kentucky Recycling Cooperative Group, and the board.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS

FOLLOWS:

- (1) Beginning January 1, 2001, every solid waste landfill shall have a tipping fee of one dollar and fifty cents (\$1.50) per ton of waste disposed in addition to its regular tipping fee.
- (2) Beginning January 1, 2001, operators of a solid waste landfill shall pay to the cabinet the tipping fee established in this section for each ton of waste disposed in a landfill in a manner and within time periods determined by the cabinet. The fee shall be accompanied by a report or return in a form that the cabinet may prescribe by administrative regulation.
- (3) If a landfill operator fails to make a payment and file a return required by this section on or before the due date established by the cabinet, the cabinet may assess a penalty of ten percent (10%) of the amount due, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late.
- (4) All payments collected by the cabinet under this section shall be paid into the State Treasury and credited to the recycling cooperative fund established in Section 9 of this Act.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A trust fund, which shall be known as the "Recycling Cooperative Fund," is hereby created in the State Treasury of the Commonwealth to be administered by the Kentucky Recycling Cooperative Group established in Section 2 of this Act. All payments collected under Section 8 of this Act shall be deposited in the recycling cooperative fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.
- (2) Money in the fund shall be used as follows:
 - (a) Up to fifty percent (50%) for infrastructure development and equipment for regional distribution centers, materials recovery facilities, satellite processing facilities, and ongoing recycling programs to be distributed to participating local governments through a grant program administered by the group;
 - (b) Up to forty percent (40%) for solid waste and recycling activities, litter and illegal dump cleanup, and the operation of universal solid waste collection, including the payment of uncollected solid waste pick-up fees, to be distributed to participating local governments through a formula based on population and total road miles to be determined by the board;
 - (c) Up to three percent (3%) of the fund shall be used for administrative costs by the Kentucky Recycling Cooperative Group and Revenue Cabinet;
 - (d) Up to five percent (5%) to be used as matching fund money for developing and implementing a recycling educational curriculum in elementary and secondary schools by the Kentucky Environmental Education Council; and
 - (e) Up to two percent (2%) to be used as matching fund money for the Adopt-a-Highway Program and public service announcements by the Department of Transportation.
- (3) Unexpended money from subsection (2) of this section remaining in the fund at the end of the fiscal year shall revert to the recycling cooperative fund and shall be authorized and administered by the group for the operation of the recycling cooperative program, county solid waste management programs, and other solid waste activities as determined by the group.
- (4) Each participating local government shall receive its share of the money from the sale of recovered material according to Section 5 of this Act. This money shall not be part of the recycling cooperative fund, but shall be maintained and accounted for by the group, and it shall be the executive director's responsibility to insure that each participating local government receives accurate payments from the sale of recovered material.

SECTION 10. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) A solid waste hauling operation that is subject to the tipping fee established in Section 8 of this Act and that is obligated by a contract or agreement that precludes recovery of the tipping fee shall be entitled to a nonrefundable credit against the Kentucky income tax liability established under this chapter. For any taxable year, the credit shall be in an amount equal to the tipping fee paid according to Section 8 of this Act that is not recoverable.
- (2) The contract or agreement identified in subsection (1) of this section shall have been in existence at least three (3) months prior to the effective date of this Act, and shall preclude adjustments to the contract or agreement that would allow the tipping fee established in Section 8 of this Act to be added to the contract price.
- (3) Any credit not used in the tax year in which it first becomes available may be carried forward to the next succeeding five (5) years until the credit has been fully used.
- (4) A solid waste hauler claiming the credit under this section must submit proof of the contract or agreement as required by regulations issued by the Revenue Cabinet prior to the claiming of the credit.

Section 11. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the

priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual credits permitted by KRS 141.020(3);
 - (b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;
 - (c) The health insurance credit permitted by KRS 141.062;
 - (d) The tax paid to other states credit permitted by KRS 141.070;
 - (e) The credit for hiring the unemployed permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;
 - (h) The low income credit permitted by KRS 141.066; ~~and~~
 - (i) The household and dependent care credit permitted by KRS 141.067; and
 - (j) The tipping fee credit permitted by Section 10 of this Act.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual withholding tax credit permitted by KRS 141.350; and
 - (b) The individual estimated tax payment credit permitted by KRS 141.305.
- (3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:
 - (a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;
 - (b) The health insurance credit permitted by KRS 141.062;
 - (c) The unemployment credit permitted by KRS 141.065;
 - (d) The recycling or composting equipment credit permitted by KRS 141.390;
 - (e) The coal conversion credit permitted by KRS 141.041;
 - (f) The tipping fee credit permitted by Section 10 of this Act;
 - (g) The enterprise zone credit permitted by KRS 154.45-090; and
 - ~~(h)(g)~~ The tax credit for cash contributions to investment funds permitted by KRS 154.20-263.
- (4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 12. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled,

and used in an environmentally acceptable manner:

- (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
- (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;

- (24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
 - (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
 - 1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;
 - 2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 - 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 - 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
 - (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the

waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;

- (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- (36) "NPDES" means National Pollutant Discharge Elimination System;
- (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
- (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
- (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
- (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;
- (45) "Universal collection" means a municipal solid waste curbside or end-of-driveway collection system which is established by ordinance and approved by the cabinet and requires participation~~[access for]~~ each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 13. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) Each county, urban-county government, or charter county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for

curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, or franchise.

- (2) The county, urban-county government, or charter county government may enter into agreements, contracts, and other arrangements, including agreements for the cooperative or joint administration of universal collection, with municipalities, corporations, public and private agencies, associations, organizations, or individuals as necessary to maintain and operate a system of universal collection.
- (3) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recovered material.
- (4) A commercial or industrial entity that transports or contracts for the transport of solid waste it generates or that operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government. A commercial or industrial entity that contracts for the transport of solid waste may be required to periodically show proof that its solid waste is disposed of properly as determined by the county, urban-county government, or charter county government. The service provider of universal collection for a commercial or industrial entity shall comply with any county reporting requirements that may be established under Section 14 of this Act.

SECTION 14. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection is operated and enforced, including the method of billing and collecting fees and delinquent fees, and the method for tracking solid waste generators moving into the county.
- (2) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, number of households served, volume of solid waste collected, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.
- (3) The county, urban-county government, or charter county government shall:
 - (a) Require and maintain reports from all service providers of universal collection on households or businesses served, volume of solid waste collected, and destination of solid waste; and
 - (b) Require and maintain reports from all service providers of curbside recycling as well as all recycling facilities, including scrap processors engaged in the collection and recycling of recovered materials, on the households served, volume of recovered material collected, and destination of recovered material.
- (4) The information required in subsection (3) of this section shall remain confidential and for the exclusive use of the county, urban-county government, or charter county government in reporting aggregate numbers of solid waste collection activities to the state.

SECTION 15. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) A county, urban-county government, or charter county government shall be responsible for collecting delinquent solid waste pick-up fees and for insuring that collection of solid waste continues when pick-up fees are not paid.
- (2) A county, urban-county government, or charter county government may establish reduced solid waste pick-up fees for low-income households.
- (3) A county, urban-county government, or charter county government may establish charges and penalties for nonpayment of solid waste pick-up fees to defray administrative costs of fee collection.
- (4) In addition to the remedy established in KRS 109.310 for the collection of delinquent solid waste pick-up fees, the county, urban-county government, or charter county government may place a lien upon all motor vehicles owned or leased by a person who fails or refuses to pay the solid waste pick-up fee for the amount of the fee and may take and retain possession thereof until the amount of the fee and all charges and penalties in connection therewith shall have been paid.
- (5) A county, urban-county government, or charter county government may provide a list of names of individuals who fail or refuse to pay solid waste pick-up fees to the Transportation Cabinet on a monthly basis. The Transportation Cabinet shall provide the list of names and appropriate information to the Department of Information Systems for inclusion in the automated vehicle information system database. Any motor vehicle registered to such an individual shall not have its registration renewed until proof of payment of solid waste pick-up fees has been presented to the county clerk. Upon proof of payment and payment of reinstatement fee according to Section 18 of this Act, the county clerk shall remove the information from the AVIS database and immediately renew the vehicle registration.

SECTION 16. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS

FOLLOWS:

The Commonwealth shall not endorse projects under the Kentucky intergovernmental review process for any county, urban-county government, or charter county government that fails to implement and maintain a successful universal collection program as determined by the cabinet.

SECTION 17. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish reporting requirements and standards for a county, urban-county government, or charter county government on the implementation and maintenance of universal collection.

Section 18. KRS 186.180 is amended to read as follows:

- (1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.
- (2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars (\$3) for each plate and a fee of three dollars (\$3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.
- (3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars (\$5) of which the clerk shall be entitled to three dollars (\$3) and the cabinet shall be entitled to two dollars (\$2).
- (4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of twenty dollars (\$20), which shall be equally divided between the county clerk and the cabinet.
- (5) *If the owner's registration is not renewed as a result of the provisions set forth in Section 15 of this Act, the owner may have his or her registration renewed by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof that solid waste pick-up fees have been paid. The owner shall pay to the clerk a fee of ten dollars (\$10), which shall be equally divided between the county clerk and the cabinet.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Vehicle Regulation shall provide and receive information on the nonpayment of solid waste pick-up fees in accordance with Section 15 of this Act. The department shall provide appropriate delinquent fee information to the Department of Information Systems for inclusion in the AVIS database.*
- (2) *A motor vehicle registered to a person who is listed in the AVIS database as being delinquent in the payment of solid waste pick-up fees shall not have the registration of the motor vehicle renewed until the person presents proof of payment to the county clerk and pays the reinstatement fee required by Section 18 of this Act.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

- (1) The Transportation Cabinet may solicit and receive grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used for the Adopt-a-Highway litter reduction program.
- (2) Moneys received under this section shall be deposited in the State Treasury and credited to the Transportation Cabinet solely for use by the Adopt-a-Highway Program.

Section 21. The following KRS sections are repealed:

- 224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion.
- 224.10-660 Kentucky Recycling and Marketing Assistance Program -- Advisory committee."

Floor Amendment No. 4 Title to **HB 1**, by Representative Anderson:

On page 1, by amending the title to read as follows:

"AN ACT relating to solid waste."

Floor Amendment No. 1 to **HB 359**, by Representative Palumbo:

On page 3, line 2, after "ethics" by inserting ";

- (e) A policy that any moneys that are designated as discretionary expenditures from a city, county, urban-county government, or charter county government that are given to an entity or given for a project by a member, or members, of the respective local legislative body shall not be given in the name of an individual member, or individual members, of the local legislative body, but rather shall be given in the name of the collective local legislative body".

Floor Amendment No. 2 Title to **HB 359**, by Representative Palumbo:

by amending the title to read as follows: "AN ACT relating to local ethics."

House Floor Amendment No. 1 to **SB 68**, by Representative Cox:

On page 1, after line 6 by inserting the following:

"Section 2. KRS 158.195 is amended to read as follows:

- (1) Local boards may allow any teacher or administrator in a public school district of the Commonwealth to read or post in a public school building, classroom, or event any excerpts or portions of: the national motto; the national anthem; the pledge of allegiance; ~~the preamble to the Kentucky Constitution;~~ the Declaration of Independence; the Mayflower Compact; the writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States; United States Supreme Court decisions; and acts of the United States Congress including the published text of the Congressional Record. There shall be no content-based censorship of American history or heritage in the Commonwealth based on religious references in these writings, documents, and records.
- (2) The preamble to the Kentucky Constitution, which states, "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution," shall be posted in a conspicuous place in all public school buildings."

House Floor Amendment No. 2 Title to **SB 68**, by Representative Cox:

by amending the title to read as follows: "AN ACT relating to civil expressions."

Floor Amendment No. 3 Title to **HB 123**, by Representative Crall:

On page 1, by amending the title to read as follows: AN ACT relating to state symbols.

Floor Amendment No. 4 to **HB 123**, by Representative Heleringer:

On page 1, following the last "WHEREAS" clause, by inserting:

"WHEREAS, Kentucky is a state which shows its pride by the quality of its hubcaps;"; and
On page 1, following line 3, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The mag wheel is named and designated as the official hubcap of Kentucky."

Floor Amendment No. 5 to **HB 123**, by Representative Heleringer:

On page 1, following the final "WHEREAS" clause, by inserting:

"WHEREAS, the Capitol Annex is noted for its exquisite and distinctive cuisine;"; and

On page 1, following line 3, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Roadkill is named and designated as the official entree of the Kentucky State Capitol Annex Cafeteria."

• Floor Amendment No. 6 to **HB 123**, by Representative Heleringer:

On page 1, following the final "WHEREAS" clause, by inserting:

"WHEREAS, the Speaker of the Kentucky House of Representatives has coined a new word to describe the language most often heard in the House of Representatives;"; and

On page 1, following line 3, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The "buzz" is named and designated as the official language of the Kentucky House of Representatives."

Floor Amendment No. 2 to the Committee Substitute to **HB 406**, by Representative Ford:

On page 1, line 15, by deleting "and"; and

on page 1, line 15, following the second "County", by inserting ", and the third shall be located in Climax, Kentucky, in Rockcastle County".

Floor Amendment No. 3 to the Committee Substitute to **HB 647**, by Representative Geveden:

On Page 14, line 8, by deleting "45A.360" and inserting in lieu thereof, "45A.460"; and

On Page 14, line 12, by deleting "45A.360" and inserting in lieu thereof, "45A.460".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 203:	Representative Colter
HB 262:	Representative Stewart
HB 324:	Representative Sims
HB 439:	Representative Palmer
HB 443:	Representative Colter
HB 507:	Representative Cherry
HB 674:	Representative Stewart
HB 680:	Representative Stewart

The following member filed a request to have his name withdrawn as co-sponsor of a Bill under rules previously suspended:

HB 602:	Representative Yonts
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Announcements

The following meetings were announced:

Minority Caucus, February 16, 2000, 10 minutes upon adjournment, Room 111

Majority Caucus, February 16, 2000, upon adjournment, Room 149

Subcommittee on Commonwealth on Human Services, February 16, 2000, 5:15 p.m., Room 131

Local Government, February 17, 2000, 8:30 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 17, 2000.

The motion that the House adjourn until 2:00 p.m., February 17, 2000, was adopted by voice vote.

FEBRUARY 17, 2000
THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary A. Chapman, Louisville Superintendent of United Methodist Church

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representatives Cox and Polston.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 16, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 71, SB 72, SB 101, SB 102, SB 113, SB 125, SB 169, HB 22, HB 257, and HB 342.** (Time: 2:12)

Representative Rasche moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Rasche moved to defer action on **Legislative Citation No. 65.** Agreed.

Representative Graham moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 64.**

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of James W. Roach and offers its sincerest condolences to the Roach family and to all those who share in the loss of this distinguished Kentucky citizen. Born on June 17, 1913 in Franklin County, Kentucky, Mr. Roach was the beloved husband of Catherine T. Roach; cherished father of Mary Lou Clem, Bobby Roach, Lois Pulliam, Coleman L. Roach and Jane Sims and the adoring grandfather of ten grandchildren and twenty great-grandchildren. A longtime resident and tobacco farmer in Franklin County, he was a retired state government employee, carpenter, brick mason and truck driver who was well known and admired for his infallible work ethic, his wonderful sense of humor and his unwavering sense of honesty, which would have been rivaled only by that of our first President, George Washington. A devoted family man who possessed a deep and abiding faith in God, Mr. Roach lived his life with the utmost integrity and left both his descendants and all those who were touched by his kind and generous spirit with a legacy of living each day to its fullest and finding joy and contentment in living according to the Golden Rule while being thankful for what God has provided. The esteemed members of this honorable body do solemnly join with Representative Gippy Graham in honoring the memory of James W. Roach for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this seventeenth day of February, in the year of our Lord, two-thousand.

Legislative Citation No. 64 was adopted without objection.

Representative Tom Ryder, member of the Illinois House of Representatives and Chairman of the Council of State Governments briefly addressed the House.

Representative Feeley moved that the rules be suspended to grant floor privileges to a special guest and to act upon a Resolution. Agreed.

Representative Feeley moved the adoption of the following **HR 94:**

HR 94, A RESOLUTION proclaiming the month of February as Children's Dental Health Month.

WHEREAS, the more children know about taking care of their bodies, the healthier they will be as adults. Preventive dental care has dramatically improved the oral health of Americans, and many children now reach adulthood without ever experiencing tooth decay; and

WHEREAS, Children's Dental Health Month celebrates the success organized dentistry has had in advancing health care, and provides dentists with an opportunity to meet young Kentuckians and encourage them to keep up healthy dental habits; and

WHEREAS, in February, the Kentucky Dental Association and its local societies throughout the Commonwealth will share positive dental health care messages with thousands of children, educators, and parents; and

WHEREAS, healthy lives are productive lives. It is appropriate, therefore, for all citizens to join in supporting this observance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby proclaim the month of February, 2000, as Children's Dental Health Month in the Commonwealth of Kentucky.

Section 2. When the House of Representatives adjourns this day, it does so in honor of children's dental health.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Kentucky Dental Association, 1940 Princeton Drive, Louisville, Kentucky 40205.

There being no objection **HR 94** was adopted.

Representative Rasche moved the adoption of **Legislative Citation No. 65** under rules previously suspended.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds John Theodore Sanders for the many and vital contributions he has made to education and to his profession. A distinguished graduate of Wayland Baptist and Washington State Universities who obtained a doctor of education degree from the University of Nevada in Reno, this esteemed honoree is currently the president of the Education Commission of the States. To this position he brings the wealth of knowledge and experience he has accrued throughout a phenomenal career in education during which he has served as a classroom teacher, an author, a chief state school officer in three states, as the acting U.S. Secretary of Education from 1990 to 1991 and as president at Southern Illinois University. Active in many educational organizations, he is a member of the Executive Board of the National Council for Accreditation of Teacher Education, a member of the Board of Directors of the Institute for Educational Leadership and has served as a past chairman of the American Council on Education's President's Task Force on Teacher Education. The recipient of many awards and accolades including the Alumni Achievement Award from Washington State University, he also holds honorary doctorates from four institutions of higher learning. Inasmuch as this esteemed honoree has labored with untiring diligence and fortitude within his profession and, as a result, has contributed greatly to the standard of excellence in education, the entire membership is indeed honored to join Speaker Jody Richards in affording highest regards to Ted Sanders for his efforts in this most worthwhile endeavor and in extending best wishes for continued success and good fortune. Done in Frankfort, this seventeenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 65 was adopted without objection.

Report On Enrolled Bills

HB 56, HB 90, HB 109, HB 137, and HB 205 delivered to the Senate and signed by the President. Delivered to the Governor on February 17, 2000, at 2:25 p.m.

Introduction of Bills and Resolutions

HB 740, by Representative Ballard: AN ACT relating to local elections.

HB 741, by Representative Anderson: AN ACT relating to compensation of public employees and declaring an emergency.

HB 742, by Representative Palumbo: AN ACT relating to the purchase of development rights for public parks.

HB 743, by Representative Anderson: AN ACT relating to labor management negotiations.

HB 744, by Representatives Riggs and Simpson: AN ACT relating to the Kentucky Law Enforcement Foundation Program.

HB 745, by Representatives Stumbo and Burch: AN ACT proposing to create a new section of the Kentucky Constitution

relating to a statewide referendum on container deposit.

HB 746, by Representative Treesh: AN ACT relating to revenue and taxation.

HB 747, by Representatives R. Adams, Horlander, C. Belcher, Marzian, Worthington, Tapp, Haydon, Jenkins, Stacy, Wilkey, Palmer, Kerr, P. Clark, Thomas, Adkins, McKee, and Webb: AN ACT relating to sales and use tax.

HB 748, by Representative Damron: AN ACT relating to deferred compensation.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 722**

Appropriations and Revenue: **HB 719, HB 732**

Education: **HB 717, HB 739**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 724, HB 725, HB 730**

Health and Welfare: **SB 121**

Judiciary: **HB 714, HB 716, HB 734, HB 735, SB 11**

Local Government: **HB 726**

Seniors, Military Affairs, and Public Safety: **HB 731**

State Government: **HB 712, HB 713, HB 720, HB 721, HB 723, HB 727, HB 728, HB 729, HB 733, HB 737, HR 106,**
SJR 57

Transportation: **HB 715, HB 736, HB 738, SB 19**

House Floor: **HR 104, HR 105**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Licensing and Occupations: **HB 618, HB 663, HB 673, HB 677**

Health and Welfare: **HB 706, HCR 60, HCR 65**

Transportation: **HB 563, HB 465, HB 596, HB 702, HJR 100, SB 97**

The following Bill has been withdrawn from Committee consideration:

Licensing and Occupations: **HB 195**

Report of Committees

The Committee on Local Government reported **HB 189, HB 190, HB 412, HB 539, HB 604, HB 645**, and **SB 62** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 189, AN ACT relating to health insurance coverage of city pension fund retirees and their spouses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "City" means a city that maintains a policemen's pension fund, a firefighter's pension fund, or a policemen's and firefighter's pension fund established under this chapter;

(b) "Health insurance coverage" means health maintenance organization coverage, hospitalization benefits, or other health or medical care coverage provided under this chapter; and

(c) "Pension fund" does not include the County Employees Retirement System, which shall continue to be subject to KRS 61.702.

(2) If a city provides health insurance coverage for city employees in accordance with KRS 79.080, the city shall permit a

pension fund member retired for service or disability and who is not Medicare eligible, as provided in 42 U.S.C. sec. 1395, to participate in the same health insurance coverage by submitting a request for admission to the city's health care plan to the health care plan administrator. Upon the request of the retired pension fund member or the member's surviving spouse, the city shall also permit the retired member's spouse or surviving spouse to participate in the health insurance coverage provided pursuant to KRS 79.080, regardless of any prior insurance by which they may be covered. The cost for participation in health care coverage as provided by this subsection shall be paid by the retired pension fund member or the member's spouse or surviving spouse.

HB 190, AN ACT relating to the duties of the board of trustees of pension systems in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.871 is amended to read as follows:

The board shall have, in addition to other duties arising out of KRS 95.851 to 95.884 and KRS 95.991, the following duties:

- (1) Establish and maintain an office in the facilities provided by the city for the meetings of the board and the keeping of the books, accounts, and records of the fund; hold regular meetings at least quarterly, and ~~such~~ special meetings as may be deemed necessary; and keep a full record of all of its proceedings, which shall be open to inspection by the public.
- (2) Provide for the installation of a system of accounts and records that will give full effect to the requirements of KRS 95.851 to 95.884 and KRS 95.991; adopt all necessary actuarial tables to be used in the operation of the fund; and provide for the compilation of ~~such~~ statistical and financial data as may be required for actuarial valuations, periodic surveys, and calculations.
- (3) Obtain ~~such~~ information from the participating members and the city as shall be necessary for the proper operation of the fund.
- (4) Consider and pass upon all applications for annuities, benefits, refunds and other payments, and authorize the expenditure for ~~these~~ ~~such~~ purposes, in accordance with the provisions hereof. The board shall have authority to promulgate ~~such~~ rules and regulations in accordance with provisions of KRS Chapter 13A, not inconsistent with the provisions of KRS 95.851 to 95.884 and KRS 95.991, necessary for the proper determination of all claims before it. If on any particular matter or issue the board is deadlocked, the board, by a majority vote of its members, may select an impartial individual to hear the issue and decide the outcome. The decision of the impartial individual will be final and binding on all parties and on all matters involved in the disagreement.
- (5) Accept any gift, grant, or bequest of any money or property of any kind, for the purposes designated by the grantor if ~~the~~ ~~such~~ purposes are specified as providing cash benefits to some or all of the members or annuitants of the fund; if not ~~such~~ purposes are designated, any gift, grant, or bequest of any money or property of any kind ~~the same~~ shall be credited to the account representing income from investments.
- (6) Have the accounts of the fund audited as of the end of each fiscal year, by a competent accountant, and submit an annual report to the city as soon as possible following the close of the year, embodying, among other things, a balance sheet showing the financial and actuarial condition of the fund, a statement of income and expenditures for the year, a statement showing changes in the asset, liability, and reserve accounts during the year, a statement of investments owned by the fund, detailed statements of investments acquired and disposed of during the year, and ~~such~~ other financial or statistical data as are necessary for a proper interpretation of the condition of the fund and the results of its operations. The board shall also cause to be published for distribution among the members a synopsis of ~~this~~ ~~such~~ report.

HB 412, AN ACT relating to sanitation districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 220.140 is amended to read as follows:

Within twenty (20) days after the commissioner certifies to the county clerk of each county in which the district is located that the district is incorporated, there shall be appointed a board of directors for the district, consisting of three (3) members, which shall control and manage the affairs of the district. If the district lies wholly within a single county, the county judge/executive of that county shall appoint all of the directors. If the district lies within two (2) counties, the county judge/executive of the county in which the greater portion of the population of the district resides may appoint two (2) directors and the county judge/executive of the other county shall appoint the third. If the district lies within more than two (2) counties, the county judges/executive of all the counties shall jointly select the directors, but each one so appointed must reside in a different county. Not less than two (2) of the directors shall be freeholders, and not more than two (2) of them shall belong to or be affiliated with the same political party. If the district is coextensive with the boundaries of two (2) or more counties, four (4) directors shall be appointed by the county judge/executive of the most populous county and ~~two (2) shall be appointed by the county judge/executive of the next most populous county, and one (1) director shall be appointed by the county judge/executive of~~ each remaining county. All appointments by county judges/executive shall be subject to the approval of the respective fiscal courts. In a district which is coextensive with the boundaries of two (2) or more counties, not less than two-thirds (2/3) of the directors shall be freeholders.

No director shall be in any way associated or connected with the ownership, operation or control of any privately owned public utility operating within the district. The terms of office of the first board of directors shall be two (2), three (3) and four (4) years, respectively, from the date of their appointment, the length of the term of office of each member to be determined by lot at their first meeting, but the individual holding such office shall do so at the pleasure of the county judge/executive by whom he is appointed, and he may be removed without cause, with the approval of the respective fiscal court, by the county judge/executive by whom he was appointed and his unexpired term filled by another appointee of such county judge/executive. After the expiration of the respective terms of office of the first board, each director shall be appointed for a term of four (4) years, subject to the will of the county judge/executive making the appointment. Vacancies resulting from any cause other than expiration of term shall be filled only for the unexpired term. The county judge/executive of the county whose director has completed his term of office or whose office has otherwise been vacated shall fill the vacant office, except that when the district lies within more than three (3) counties, if each county is not represented, vacancies resulting from expiration of term shall be filled in rotation by the county judges/executive of those counties not represented by a director at the time a vacancy occurs. The directors shall at all times be residents of the district, and the office of any director who moves his residence outside the district shall automatically be vacated.

HB 539, AN ACT relating to the planning commission in counties with populations in excess of 300,000.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.137 is amended to read as follows:

- (1) Counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of five (5)~~three (3)~~ members, who are nonresidents of the largest city of the county, appointed by the county judge/executive of such county; five (5)~~three (3)~~ members who are residents of the largest city of the county appointed by the mayor of that city; and the mayor of the largest city, or his designee; the county judge/executive, or his designee; the director of works of the largest city in the county, and the county road engineer. The county judge/executive and the mayor together shall ensure that seven (7)~~three (3)~~ of the ten (10)~~six (6)~~ appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All fourteen (14)~~ten (10)~~ members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records under KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings under KRS 100.157.
- (2) In counties containing a city of the first class, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court.
- (3) In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

HB 604, AN ACT changing the classification of the City of Jeffersontown, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Jeffersontown, in Jefferson County, is such as to justify its being classified as a city of the second class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Jeffersontown, in Jefferson County, is transferred from the fourth to the second class of cities.

HB 645, AN ACT relating to city utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.740 is amended to read as follows:

- (1) Any municipality desiring to acquire and operate an electric plant under the provisions of KRS 96.550 to 96.900 or any municipality now owning and operating an electric plant may elect to operate under the provisions of KRS 96.550 to 96.900 by enacting an ordinance declaring therein the desire and intention of the municipality to accept and operate under the provisions of KRS 96.550 to 96.900 and by providing in the said ordinance that the municipality accepts and agrees to all of the provisions of KRS 96.550 to 96.900, and to all of the said provisions as they may be from time to time amended by the acts of the General Assembly of Kentucky. The ordinance shall further authorize the mayor or chief

executive to appoint a board, subject to the approval of the appointments by the governing body of the municipality as hereinafter in KRS 96.750 to 96.900 provided. Upon the passage of ~~the[such]~~ ordinance the mayor or chief executive of any ~~[such]~~ municipality may, with the approval of the governing body of the municipality, appoint a board of public utilities, consisting of four (4) residents of the municipality who have resided therein for not less than one (1) year next preceding the date of the appointment. ~~The[Said]~~ board must be appointed and qualified before the municipality shall have any authority to proceed further under the provisions of KRS 96.550 to 96.900. ~~The[Said]~~ board, when so appointed and qualified, shall be and hereby is declared to be a body politic and corporate, with perpetual succession; and ~~[said body]~~ may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The name of ~~the[said]~~ board shall be "Electric Plant Board of the City of" (The name of the municipality to be inserted.)

- (2) No person shall be appointed a member of the board who has, within the last two (2) years next before his or her appointment, held any public office, or who is related within the third degree to the mayor or any member of the governing body of the municipality.
- (3) Neither the board nor the superintendent appointed by the board shall appoint to any subordinate office which it may create nor employ in any capacity any person who is related within the third degree to any member of the board or to the mayor of ~~the[said]~~ municipality or to any member of the governing body of ~~that[said]~~ municipality. No officer of a municipality or employee of a municipality who is related within the third degree to the mayor or any member of the governing body of the municipality shall be eligible for such appointment until at least one (1) year after the expiration of the term of his or her public office, or employment; ~~and any payment made in violation of this clause of this section shall be illegal and the superintendent and the board members voting for or approving or consenting to same shall be personally liable for the amount so paid and this liability may be enforced by suit by any citizen of the municipality.~~
- (4) The members of the board shall be citizens, taxpayers, and legal voters of ~~the[such]~~ municipality and shall not at the time of the appointment be indebted to the municipality either directly or indirectly or be surety on the official bond of any officer of ~~the[said]~~ municipality.
- (5) If at any time during his or her term of office a member of the board becomes a candidate for or is elected or appointed to any public office, he or she shall automatically vacate his or her membership from the board, and another person shall be appointed to his or her place.
- (6) The municipality shall pay the cost of securing bonds for board members from a surety company qualified to do business in Kentucky, and ~~[said]~~ members shall execute bond in an amount required by resolution of the governing body, and conditioned upon the faithful performance of their official duties.
- (7) Each member of the board shall qualify by taking the oath required by Section 228 of the Constitution.

SB 62, AN ACT relating to the hiring of sheriffs' deputies.

WHEREAS, it is the intent of the General Assembly to provide as much flexibility in the hiring process and subsequent employment of law enforcement personnel so the citizens of the Commonwealth of Kentucky may enjoy an improved quality of life afforded them by the provision of fewer restrictions on the hiring of law enforcement personnel; and

WHEREAS, with the advent of better roads, vehicles, and electronic communications devices, the issue of proximity of the residences of law enforcement personnel relative to the area in which they serve is diminished;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer, or deputy peace officer; unless:

- (1) He is a citizen of the United States and is twenty-one (21) years of age or over;
- (2) If a deputy constable, he has resided in the county wherein he is appointed to serve for a period of at least two (2) years; ~~and;~~
- (3) If a deputy sheriff, he shall be a resident of the Commonwealth of Kentucky ~~[agree to reside in the county wherein he is appointed within ninety (90) days of his appointment, and to continue his residence therein during the term of his appointment]~~. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county in which he serves for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision;
- ~~(4) [(3)]~~ He has never been convicted of a crime involving moral turpitude;
- ~~(5) [(4)]~~ He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer, or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying

private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute; and

~~(6)(5)~~ He has complied with the provisions of KRS 15.333.

Section 2. KRS 350.052 is amended to read as follows:

- (1) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall be empowered to arrest, without a warrant, any person detected by him to be violating the provisions of this chapter which constitute criminal offenses.
- (2) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall have the authority to use physical force, which he believes necessary, in accomplishing any lawful arrest for a criminal offense; however, deadly physical force may be used only when the officer is authorized to make an arrest, the arrest is for a felony involving the threatened use of physical force likely to cause death or serious physical injury, and the officer believes that the person to be arrested is likely to endanger human life unless arrested without delay.
- (3) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall meet the qualifications set forth in KRS 61.300(1), ~~(4)(3)~~ and ~~(5)(4)~~ and shall prior to appointment:
 - (a) Successfully complete not fewer than eighty (80) hours of training in a program provided by the Department of Criminal Justice Training, Justice Cabinet, and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; and
 - (b) Demonstrate in written and practical examinations approved by the Department of Criminal Justice Training, Justice Cabinet, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid.

The Committee on Banking and Insurance reported **HB 390**, with Committee Substitute attached thereto, **HB 396**, **HB 517**, **HB 525**, **HB 621**, with Committee Amendment attached thereto, and **HB 634** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 390, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-500 is amended to read as follows:

As used in KRS 304.17A-500 to 304.17A-570, unless the context requires otherwise:

- (1) "Adverse determination" means a determination by a managed care plan or its designee internal review organization that an admission, availability of care, continued stay or other health care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness, or that the requested health care service is not a covered benefit, and that the requested service or payment for the service is therefore denied, reduced, or terminated;
- (2) "Capitation" means a method of compensation to a provider based on a predetermined payment per certain enrollee for a specified period of time, in exchange for arranging for or providing a defined set of covered health care services to the enrollee for a specified period of time, regardless of the number of services actually provided;
- (3) "Complainant" means an enrollee, a provider, or other person designated to act on behalf of an enrollee, who files a complaint;
- (4)
 - (a) "Complaint" means any dissatisfaction expressed orally or in writing to a managed care plan. The dissatisfaction may be with any aspect of the managed care plan's operation, including but not limited to, dissatisfaction with plan administration; appeal of an adverse determination; the denial, reduction, or termination of a service; the way a service is provided; or disenrollment decisions.
 - (b) A complaint is not a misunderstanding or a problem of misinformation that is resolved promptly by clearing up the misunderstanding or supplying the appropriate information to the satisfaction of the enrollee;
- (5) "Contract holder" means an employer or organization that purchases a contract for services;
- ~~(6)(2)~~ "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;
- ~~(7)(3)~~ "Emergency medical condition" means:
 - (a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:
 1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;
 2. Serious impairment to bodily functions; or
 3. Serious dysfunction of any bodily organ or part; or

- (b) With respect to a pregnant woman who is having contractions:
1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or
 2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;
- ~~(8)(4)~~ "Enrollee" means a person who is enrolled in a managed health care plan;
- ~~((5))~~ "Grievance" means a written complaint submitted by or on behalf of an enrollee;
- ~~(9)(6)~~ "Health insurance policy" means "health benefit plan" as defined in KRS 304.17A-005;
- ~~(10)~~ "Independent external review" means a review by an independent external review organization of an adverse determination;
- ~~(11)~~ "Independent external review organization" means an entity certified by the department to conduct independent external reviews;
- ~~(12)(7)~~ "Insurer" has the meaning provided in KRS 304.17A-005;
- ~~(13)~~ "Life threatening" means a disease or condition for which the likelihood of death is probable unless the course of the disease or condition is interrupted;
- ~~(14)(8)~~ "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;
- ~~(15)~~ "Medical necessity" means health care services or products that a prudent health care provider would provide to an enrollee to prevent, diagnose, or treat an illness, injury, disease or its symptoms in a manner that is in accordance with generally accepted standards of medical practice, clinically appropriate in terms of type, frequency, extent, site and duration, and not primarily for the convenience of the enrollee or providers;
- ~~(16)(9)~~ "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;
- ~~(17)(10)~~ "Quality assurance or improvement" means the ongoing evaluation by:
- ~~(a)~~ A managed care plan of the quality of health care services provided to its enrollees; or
 - ~~(b)~~ An independent external review organization to ensure the time lines and quality of the independent external review, the qualifications and independence of the physician reviewers, and the confidentiality of medical records and review materials;
- ~~(18)(11)~~ "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and
- ~~(19)(12)~~ "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 2. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- ~~(1)~~ An insurer that offers a managed care plan including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, at the time of application and issuance of the evidence of coverage after enrollment, and upon request thereafter, information which discloses that all of the following are provisions of the managed care plan:
- ~~(a)~~ Any emergency care services performed by nonnetwork health care providers will be paid at the negotiated or usual and customary rate and the health insurance policy contains the following for coverage of emergency care services, without regard to whether the health care provider furnishing the services has a contractual or other arrangement with the entity to provide services to enrollees:
 1. Any medical screening, examination, or other evaluation that is necessary to determine whether an emergency medical condition exists will be provided to covered enrollees in a hospital emergency facility or comparable facility;
 2. Necessary emergency care services will be provided to enrollees, including the treatment and stabilization of an emergency medical condition;

3. Services originated in a hospital emergency facility or comparable facility following treatment or stabilization of an emergency medical condition will be provided to enrollees as approved by the managed care plan, if the managed care plan is required to approve or deny coverage of post stabilization care as requested by a treating or ordering provider within the time appropriate to the circumstances relating to the delivery of the services and the condition of the patient, but in no case to exceed one (1) hour from the time of the request. The managed care plan shall respond to inquiries from the treating or ordering provider in compliance with this provision in the managed care plan's health insurance policy; and
4. Emergency transportation service;
- (b) A provision stating that if medically necessary covered services are not available through network providers, the managed care plan shall, on the request of a network provider, within a reasonable time period, allow referral to a nonnetwork provider and shall fully reimburse the nonnetwork provider at the usual and customary or an agreed rate, and there shall not be any additional cost to the enrollee. Each referral shall provide for a review by a specialist of the same or a similar specialty as the provider to whom a referral is requested before the managed care plan may deny a referral;
- (c) A provision to allow enrollees with chronic, disabling, or life-threatening illnesses to apply to the managed care plan's medical director to utilize a nonprimary care physician specialist as a primary care provider if:
 1. The request includes information specified by the managed care plan, including certification of medical need comments from the primary care physician regarding the enrollee's need for a nonprimary care specialist, and is signed by:
 - a. The enrollee, or a person designated to act on behalf of the enrollee; and
 - b. The nonprimary care provider specialist interested in serving as the primary care provider;
 2. The nonprimary care physician specialist meets the managed care plan's requirements for primary care provider participation; and
 3. The nonprimary care physician specialist is willing to accept the coordination of all of the enrollee's health care needs;
- (d) A provision to allow a person designated to act on behalf of the enrollee, or the enrollee with a chronic gynecological condition, or a pregnant enrollee to apply to the managed care plan's medical director to utilize an obstetrician or gynecologist as a primary care provider if:
 1. The request includes information specified by the managed care plan, including certification of medical need comments from the primary care physician regarding the enrollee's need for an obstetrician or gynecologist, and is signed by the enrollee, a person designated to act on behalf of the enrollee, and the obstetrician or gynecologist interested in serving as the primary care provider;
 2. The obstetrician or gynecologist meets the managed care plan's requirements for primary care provider participation; and
 3. The obstetrician or gynecologist is willing to accept the coordination of all of the enrollee's health care needs;
- (e) A provision to allow a female enrollee to have an annual pap smear performed by an obstetrician or gynecologist without a referral from a primary care provider;
- (f) A provision that if the request for special consideration specified in this section is denied, an enrollee, or a person designated to act on behalf of the enrollee, may appeal the adverse determination through the managed care plan's established internal review system, and a provision that the adverse determination is also subject to an independent external review;
- (g) A provision that the effective date of the new designation of a nonprimary care physician specialist as set out in subsection (1)(b) of this section shall not be retroactive. The managed care plan shall not reduce the amount of compensation owed to the original primary care provider before the date of the new designation; and
- (h) If an evidence of coverage provides benefits for rehabilitation services and therapies, a provision that those services and therapies that are medically necessary, in the opinion of a provider, shall not be denied, limited, or terminated if they meet or exceed treatment goals for the enrollee unless an appropriate alternative is available. For a disabled person, treatment goals may include maintenance of functioning or prevention of or slowing of further deterioration.
- (2) An insurer that offers a managed care plan, including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall file the information required under this section with the department.

Section 3. KRS 304.17A-520 is amended to read as follows:

- (1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.
- (2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees. This updated list shall be provided to enrollees at least annually.
- (3) Women shall be able to choose a qualified health care provider offered by a plan for the provision of covered care necessary to provide routine and preventive women's health care services.
- (4) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion. Obtaining this second opinion shall not cost an enrollee more than the enrollee's normal copay.
- (5) All plans that utilize a gatekeeper shall include on each plan application form a space in which the enrollee at the time of application or enrollment shall make a selection of a primary care provider. An enrollee shall, at all times, have the right to select or change a primary care provider within the managed care plan's network of available primary care providers. However, a managed care plan may limit an enrollee's request to change providers to no more than four (4) changes in any twelve (12) month period. As used in this subsection, "gatekeeper" shall have the same meaning as in KRS 304.17A.170.

SECTION 4. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer that offers a managed care plan, including a health maintenance organization (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall notify all group, individual, and association contract holders within thirty (30) calendar days of any substantive changes to the payment arrangements between the managed care plan and health care providers.
- (2) Every insurer that offers a managed care plan, including a health maintenance organization (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall provide to its enrollees reasonable notice of any material adverse change in the operation of the plan that will affect them directly.
- (3) Each insurer that offers a managed care plan, including a health maintenance organization (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall establish procedures to provide to any enrollee who has a disability affecting the enrollee's ability to communicate or read:
 - (a) Access to a member handbook and to the internal review system for the resolution of complaints set forth in Section 5 of this Act; and
 - (b) Access to the independent external review process set forth in Section 10 of this Act.

SECTION 5. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) Every insurer that offers a managed care plan, including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall establish and maintain an internal review system for the resolution of complaints under this section.
- (2) If a complainant notifies the managed care plan orally or in writing of a complaint, the managed care plan, not later than the fifth business day after the date of the receipt of the complaint, shall send to the complainant a letter acknowledging the date of receipt of the complaint that includes a description of the managed care plan's complaint procedures and time frames. If the complaint is received orally, the managed care plan shall also enclose a one (1) page complaint form. The one (1) page complaint form shall prominently and clearly state that the complaint form shall be returned to the managed care plan for prompt resolution of the complaint.
- (3) The managed care plan shall investigate each oral and written complaint received in accordance with its own policies and in compliance with KRS 304.17A-500 to 304.17A-570.
- (4) The total time for acknowledgment, investigation, and resolution of the complaint by the managed care plan shall not exceed thirty (30) calendar days after the date the managed care plan receives the written complaint or the one (1) page complaint form from the complainant.
- (5) Subsections (2) and (4) of this section do not apply to complaints concerning emergencies or denials of continued stays for hospitalization. Investigation and resolution of complaints concerning emergencies or denials of continued stays for hospitalization shall be concluded in accordance with the medical immediacy of the case and shall not exceed one (1) day from receipt of the complaint.
- (6) After the managed care plan has investigated a complaint, it shall issue a response letter to the complainant explaining the managed care plan's resolution of the complaint within the time frame set forth in subsection (4) of this section. The letter shall include the following:
 - (a) A statement of the specific medical and contractual reasons for the resolution;
 - (b) The specialization of any provider consulted;
 - (c) The clinical basis used to reach the decision to deny services based on an adverse determination of medical

necessity; and

- (d) Notice of the enrollee's right to seek review of an adverse determination by an independent external review organization under Section 9 of this Act, and the procedures for obtaining that review; and
- (e) The toll-free telephone number and the address of the department.
- (7) In a circumstance involving a life-threatening condition to an enrollee, the enrollee is entitled to an immediate appeal to an independent external review organization as provided in Section 10 of this Act and is not required to comply with procedures for an internal review of an adverse determination;
- (8) The managed care plan shall maintain a record of each complaint and any complaint proceeding and any actions taken on a complaint for three (3) years from the date of the receipt of the complaint. A complainant is entitled to a copy of the record on the applicable complaint and any complaint proceeding free of charge. The department may review documentation maintained under this subsection during any investigation of an insurer that offers a managed care plan, including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO).
- (9) Each insurer that offers a managed care plan, including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO) shall maintain an appeal log that includes the following:
 - (a) Name of complainant;
 - (b) Reason for the complaint;
 - (c) Date complaint is filed;
 - (d) Date of resolution of the complaint;
 - (e) Date of notification to complainant;
 - (f) Date of subsequent appeal; and
 - (g) Outcome of subsequent appeal.
- (10) Data contained in the appeal log as described in subsection (9) of this section shall be compiled in order to identify the type of complaints, time frames, and resolution of complaints. This compilation of data shall be reported annually to the department and shall be made available upon request to current and prospective plan enrollees.
- (11) The department shall promulgate administrative regulations to standardize the requirements described in subsections (8) to (10) of this section.

SECTION 6. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer that offers a managed care plan, including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall not engage in any retaliatory action, including refusal to renew or cancellation of coverage, against a group contract holder or enrollee because the group, enrollee, or person acting on behalf of the group or enrollee has filed a complaint against the managed care plan or appealed an adverse determination of the managed care plan.
- (2) An insurer that offers a managed care plan, including health maintenance organizations (HMO), point-of-service (POS), and preferred provider organizations (PPO), shall not engage in any retaliatory action, including termination of or refusal to renew a contract, against a provider because the provider has, on behalf of an enrollee, reasonably filed a complaint against the managed care plan or has appealed an adverse determination of the managed care plan.

Section 7. KRS 304.17A-525 is amended to read as follows:

- (1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.
- (2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:
 - (a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and
 - (b) Making criteria for provider participation in the plan available to all applicants.

- (3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider. The notice shall be received sixty (60) days prior to the impending change and shall include a statement identifying special procedures for enrollees to request continuation of care with their provider under Section 8 of this Act.
- (4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:
 - (a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;
 - (b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and
 - (c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 8. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, "special circumstance" means a condition that the treating provider reasonably believes could cause harm to the enrollee if care were discontinued. "Special circumstance" includes a circumstance in which an enrollee has a disability, acute condition, a life-threatening illness, or is past the twenty-fourth week of pregnancy.
- (2) Any special circumstance shall be identified by the treating provider, who may request, with the concurrence of the enrollee, that the enrollee be permitted to continue treatment under the provider's care even when the provider is no longer within the network, unless the provider has been terminated for a reason other than quality. The treating, nonnetwork provider shall also agree not to seek payment from the patient of any amounts for which the enrollee would not be responsible if the provider were still on the managed care plan network. The treating, nonnetwork provider shall agree to care for the enrollee under the same guidelines as required by the plan, and shall report to the plan on the care being provided.
- (3) Procedures for resolving disputes regarding the necessity for continued treatment by a provider shall be established by the plan and provide for appeal through the plan's internal review system.
- (4) This section does not extend the obligation of the plan to reimburse a terminated or nonrenewed provider for ongoing treatment of an enrollee beyond the ninetieth day after the effective date of the termination or nonrenewal, or beyond nine (9) months in the case of an enrollee who at the time of the termination has been diagnosed with a terminal illness. However, the plan shall reimburse a terminated or nonrenewed provider or, if applicable, the enrollee, for services, if at the time of the termination or nonrenewal the enrollee is past the twenty-fourth week of pregnancy. This obligation extends through the delivery of the child, immediate postpartum care, and the follow-up checkup within the first six (6) weeks of delivery.
- (5) The following provisions apply to any insurer that offers a managed care plan, including health maintenance organizations (HMO), point of service (POS), and preferred provider organization (PPO), that to any extent used capitation as a method of compensation:
 - (a) No later than the tenth day following the date an enrollee has selected or has been assigned a primary care provider, the plan shall begin payment of capitated amounts to that provider. If selection or assignment does not occur at the time of enrollment, capitation that would otherwise have been paid to a selected primary care provider, if a selection had been made, shall be reserved as a capitation payable until the time an enrollee makes a selection or the plan assigns a primary care provider.
 - (b) If an enrollee does not select a primary care provider at the time of application or enrollment, a managed care plan may assign an enrollee to a primary care provider. If a managed care plan elects to assign an enrollee to a primary care provider, the assignment shall be made to a primary care provider located within the zip code nearest the enrollee's residence or place of employment, and to the extent practicable given the zip code limitation, shall be done in a manner that results in a fair and equal distribution of enrollees among the plan's primary care providers. The managed care plan shall inform an enrollee of the name, address, and telephone number of the primary care provider to whom the enrollee has been assigned and of the enrollee's right to select a different primary care provider. An enrollee shall have the right at any time to reject the provider assigned and to select another provider from the list of primary care providers for the managed care plan network. An election by an enrollee to reject an assigned provider shall not be counted as a change in providers for purposes of the limitation described in subsection (5) of Section 3 of this Act.
 - (c) A plan shall notify a provider that the provider has been selected or assigned as an enrollee's primary care provider within ten (10) days of the selection or assignment.
- (6) A contract between an insurer that offers a managed care plan, including a health maintenance organization (HMO),

point of service (POS), and preferred provider organizations (PPO), and a provider, shall require the provider to post in the office of the provider a notice to enrollees setting out the process for resolving complaints with the managed care plan. The notice shall include the department's toll-free telephone number for filing complaints.

SECTION 9. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

The Independent Health Care Appeals Program is established in the department. The purpose of the program is to provide an independent-medical-necessity or appropriateness-of-services review of adverse determinations by an insurer offering a managed care plan, including a health maintenance organization (HMO), point of service (POS), and preferred provider organizations (PPO), to deny, reduce, or terminate benefits, if the adverse determination is contested by the enrollee.

- (1) An enrollee or person designated to act on behalf of an enrollee may apply to the Independent Health Care Appeals Program for review of an adverse determination if the enrollee has already completed the managed care plan's internal review process, except as set forth in subsection (7) of Section 5 of this Act, or if the plan has exceeded the time limit for the internal review without good cause or without reaching a decision. The enrollee shall apply to the Independent Health Care Appeals Program within sixty (60) days of the date the adverse determination was issued by the plan, in a manner determined by the commissioner.
- (2) As part of the application, the enrollee shall provide the Independent Health Care Appeals Program with:
 - (a) The name and business address of the managed care plan;
 - (b) A brief description of the enrollee's medical condition for which benefits or health care services were denied, reduced, or terminated;
 - (c) A copy of any information provided by the managed care plan regarding its decision to deny, reduce, or terminate the benefit or health care services; and
 - (d) A written consent to obtain any necessary medical records from both the managed care plan and any other out-of-network provider the enrollee may have consulted on the matter.

SECTION 10. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) The commissioner shall:
 - (a) Contract with one (1) or more independent external review organizations in the state that meet the requirements of Section 12 of this Act to conduct independent external reviews;
 - (b) Promulgate administrative regulations for:
 1. The certification, selection, and operation of independent external review organizations to perform independent external reviews described in this section and Sections 11 and 12 of this Act;
 2. The suspension and revocation of the certification;
 3. Procedures for transmitting the completed application for an independent external review to the independent external review organization; and
 4. Procedures and precise time frames for the managed care plan to provide to the appropriate independent external review organization copies of:
 - a. All medical records, consultative reports, and evaluations reviewed or related to an enrollee's complaint and to the review;
 - b. All documents used by the plan in making the adverse determination to be reviewed by the independent external review organization;
 - c. The written notification;
 - d. All documentation and written information submitted in support of the review; and
 - e. A list of each health care provider who has provided care to the enrollee and who may have medical records relevant to the review;
 - (c) Designate annually each organization that meets the standards as an independent external review organization; and
 - (d) Provide ongoing oversight of the independent external review organizations to ensure continued compliance with this section and Sections 11 and 12 of this Act and the administrative regulations promulgated in those sections. This ongoing oversight shall include random standardized reporting.
- (2) The standards required by this section shall ensure:
 - (a) The timely response of an independent external review organization selected under this section;
 - (b) The confidentiality of medical records transmitted to an independent external review organization for use in independent external reviews;
 - (c) The qualifications and independence of each health care provider making independent external review determinations for an independent external review organization;

- (d) An absence of any conflict of interest;
- (e) The fairness of the procedures used by an independent external review organization in making the determinations; and
- (f) Timely notice to enrollees, plans, providers, and the department of the results of the independent external review.
- (3) The standards adopted under this section shall include standards that require each independent external review organization to make its determination:
 - (a) Based on applicable, generally accepted practice guidelines developed by the federal government, national or professional medical societies, boards or associations, and any applicable clinical protocols practice guidelines; and
 - (b) 1. Not later than the earlier of:
 - a. The fifteenth day after the date the independent external review organization receives the information necessary to make the determination; or
 - b. The twentieth day after the date the independent external review organization receives the request that the determination be made; or
 - 2. In the case of a life-threatening condition, as expeditiously as the enrollee's medical condition requires, but in no event more than forty-eight (48) hours after the date the independent external review organization receives a request for an expedited independent external review.
- (4) A plan's failure to provide the documents set forth in subparagraph 4. of paragraph (b) of subsection (1) of this section, within the time frames, shall not delay the independent external review, and the commissioner may terminate the independent external review and reverse the adverse determination.
- (5) If the commissioner, in accordance with subsection (4) of this section, reverses an adverse determination, he shall immediately notify the independent external review organization, the enrollee, the provider, and the plan.
- (6) The independent external review may be terminated if the plan reconsiders and reverses its adverse determination and provides coverage or payment for health care services that were the subject of the independent external review.

SECTION 11. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) Upon completion of the independent external review, the independent external review organization shall submit in writing, to the complainant and to the plan, its determination of whether the managed care plan's denial, reduction, or termination of benefits or health care services deprived the enrollee of medically necessary services or benefits covered by the enrollee's health benefit plan. If the independent external review organization determines that the denial, reduction, or termination of benefits or health care services deprived the enrollee of medically necessary covered services or benefits, the written determination shall set forth the appropriate, medically necessary health care services the enrollee shall receive.
- (2) Upon receiving the independent external review organization's decision, the managed care plan shall comply with the independent external review organization's determination with respect to the medical necessity or appropriateness of health care items and services for an enrollee, and, within five (5) days, pay for those items, benefits, or services.
- (3) The independent external review organization shall provide to the commissioner reports regarding number of reviews, substance of the reviews, names of the plans involved in the reviews, resolution of the reviews, and any other information deemed appropriate or necessary by the department.
- (4) If the commissioner determines that a managed care plan is noncompliant with the findings and decisions of an independent external review organization, the commissioner shall review the plan's utilization management program to ensure that the plan is in compliance with all relevant state laws and administrative regulations. If the commissioner determines that the managed care plan is in violation of patients' rights, KRS 304.17A-500 to 304.17A-570, or other applicable administrative regulations, the commissioner may impose penalties and sanctions on the managed care plan, as provided by administrative regulation as the commissioner deems appropriate.
- (5) The cost of the independent external review shall be borne by the managed care plan in accordance with a schedule of fees established by the commissioner.
- (6) All medical records provided to the Independent Health Care Appeals Program and the independent external review organization are confidential and shall not otherwise be divulged or made public and shall not be included under materials available for public inspection.

SECTION 12. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) To be certified as an independent external review organization under KRS 304.17A-500 to 304.17A-570, an organization shall submit to the commissioner an application in the form required by the commissioner. The application shall include:
 - (a) The name of each stockholder or owner of more than five percent (5%) of any stock or options for an applicant

that is publicly held;

- (b) The name of any holder of bonds or notes of the applicant that exceed one hundred thousand dollars (\$100,000);
- (c) The name and type of business of each corporation or other organization that the applicant controls or is affiliated with and the nature and extent of the affiliation or control;
- (d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under subsection (c) of this section and a description of any relationship the named individual has with:
 - 1. A health benefit plan;
 - 2. A health maintenance organization;
 - 3. An insurer;
 - 4. A nonprofit health corporation;
 - 5. A payor;
 - 6. A health care provider; or
 - 7. A group representing any of the entities described in this paragraph;
- (e) The percentage of the applicant's revenues that are anticipated to be derived from independent external reviews conducted according to Sections 10 and 11 of this Act;
- (f) A description of the areas of expertise and the medical credentials of the health care professionals making independent external review determinations for the applicant;
- (g) The procedures to be used by the independent external review organization in making independent external review determinations; and
- (h) The quality assurance plan for adverse determination review.
- (2) The independent external review organization shall annually submit the information required by subsection (1) of this section. If at any time there is a material change in the information included in the application under subsection (1) of this section, the independent external review organization shall submit updated information to the commissioner.
- (3) An independent external review organization shall not be a subsidiary of or in any way owned or controlled by, an insurer or a trade or professional association of payors.
- (4) An independent external review organization conducting an independent external review is not liable for damages arising from the decision made by the organization. This subsection does not apply to an act or omission of the independent external review organization that is made in bad faith or that involves gross negligence.
- (5) An employee of the department who participates in the Independent Health Care Appeals Program shall not be liable for damages to any person for any action taken within the scope of the employee's function in the Independent Health Care Appeals Program. The Attorney General shall defend the employer in any civil suit, and the state shall provide indemnification for any damages awarded.

SECTION 13. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations to implement KRS 304.17A-500 to 304.17A-570. The commissioner shall appoint an advisory committee to advise the commissioner in developing the Independent Health Care Appeals Program. The committee shall include the Attorney General or his designee, and one (1) representative of each of the following:

- (1) Insurance companies;
- (2) Health maintenance organizations;
- (3) Employers;
- (4) Consumer organizations,;
- (5) Physicians;
- (6) Dentists;
- (7) Hospitals;
- (8) Registered nurses; and
- (9) Other health care providers.

SECTION 14. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

The commissioner shall report every six (6) months to the Interim Joint Committee on Banking and Insurance of the General Assembly and to the Governor on the status of the Independent Health Care Appeals Program. The report shall include a summary of the number of independent external reviews conducted and medical specialties affected, a summary of the findings and decisions made by the independent external review organization, any action taken by the commissioner arising

from the independent external review process against an insurer that offers a managed care plan, including a health maintenance organization (HMO), point-of-service (POS), and preferred physician organizations (PPO), and any other information and recommendations deemed appropriate by the commissioner.

Section 15. KRS 304.17A-505 is amended to read as follows:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

- (1) The information required to be disclosed under this section shall include a description of:
 - (a) Covered services and benefits to which the enrollee or other covered person is entitled;
 - (b) Restrictions or limitations on covered services and benefits;
 - (c) Financial responsibility of the covered person, including copayments and deductibles;
 - (d) Prior authorization and any other review requirements with respect to accessing covered services;
 - (e) Where and in what manner covered services may be obtained;
 - (f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;
 - (g) The covered person's right to appeal and the procedure for initiating an appeal ~~of a utilization management decision made by or on behalf of the insurer~~ with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;
 - ~~(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);~~
 - ~~(i)~~ Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and
 - ~~(j)(k)~~ Other information as the commissioner shall require by administrative regulation.
- (2) The insurer shall file the information required under this section with the department.

Section 16. KRS 211.464 is amended to read as follows:

- (1) Within ninety (90) days of July 13, 1990, the cabinet shall promulgate administrative regulations to implement the provisions of this chapter including the following:
 - (a) The establishment of fees for applications and renewals in an amount sufficient to pay for the administrative costs of the program and any other costs associated with carrying out the provisions of KRS 211.461 to 211.466 not to exceed five hundred dollars (\$500).
 - (b) Specification of information required of applicants for registrations and renewals, which shall include, at a minimum:
 1. A utilization review plan that includes:
 - a. Utilization review policies and procedures to be used in evaluating proposed or delivered hospital care;
 - b. Those instances, if any, under which utilization review may be delegated to a hospital utilization review program;
 - c. The procedures by which patients, physicians, or hospitals may seek timely reconsideration or appeal of adverse decisions by the private review agent;
 - d. The manner in which the private review agent shall notify the patient, hospital, and physician when payment for hospital or medical care is denied including the reasons for the denial;
 2. The type and qualifications of the personnel either employed or under contract to perform utilization review;
 3. Assurances that a toll-free line will be provided for patients, hospitals, and physicians to contact the private review agent and policies and procedures to insure that a representative of the private review agent shall be reasonably accessible to patients and providers at least forty (40) hours per week during normal business hours;
 4. The policies and procedures to insure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;
 5. A copy of the materials designed to inform applicable patients and providers of the requirements of the utilization review plan;
 6. A list of the third-party payors for which the private review agent is performing utilization review in this state; and

7. Evidence of compliance or ability to comply with the requirements of KRS 211.461 to 211.466 and the regulations;
- (c) A process for the review of applications for registrations and renewals, including application procedures, procedures for supplementing the application on the request of the secretary, reasonable timetables for review and decision, and notice procedures;
 - (d) A process for the revocation of registration, which shall include notice provisions, and reasonable timetables for decision on a revocation;
 - (e) A process for the appeal of a denial of a registration or renewal or of a revocation of a registration, which shall include the right to an administrative hearing conducted in accordance with KRS Chapter 13B;
 - ~~[(f) A process for reviewing any written complaints that a private review agent has failed to perform review in accordance with the utilization review plan submitted pursuant to KRS 211.461 to 211.466 or to comply with any requirements of KRS 211.461 to 211.466 or regulations promulgated thereunder which shall require the secretary to:~~
 - ~~1. Within ten (10) days of the receipt, send a copy of the complaint to the private review agent and require that any written reply be sent to the secretary within ten (10) days;~~
 - ~~2. Upon review of a complaint, make a recommendation to the insurer or private review agent and the insured; and~~
 - ~~3. Consider complaints before issuing or renewing any registration to a private review agent; and~~
 - ~~(g) The establishment of an appeal process to resolve disputes between private review agents and health care providers and patients.~~
- ~~(2) The cabinet may establish reporting requirements to:~~
- ~~(a) Evaluate the effectiveness of private review agents; and~~
 - ~~(b) Determine if the utilization review programs are in compliance with the provisions of KRS 211.461 to 211.466 and applicable regulations.]~~
- ~~(2) [(3)]~~ On request of any health facility, physician, or patient whose care is subject to review, the cabinet shall provide copies of policies or procedures of any private review agent which has been issued a registration to conduct review in this state.
- ~~(3) [(4)]~~ The cabinet shall, on a bimonthly basis, compile a list of registered private review agents along with the renewal dates of their registrations and the date upon which any private review agents submitted changes to their policies or procedures. This information shall be made available upon request.
- ~~[(5) The Cabinet for Health Services shall report to the General Assembly by July 1, 1991, and each year thereafter on the number of private review agents conducting utilization review, the type of criteria used to perform utilization review, and the feasibility of adopting uniform standards for one (1) or more aspects of utilization review including standardized forms for data collection and the medical procedures for which preauthorization and second surgical opinion would be required.]~~
- Section 17. KRS 304.17-412 is amended to read as follows:
- (1) Every health insurer proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:
 - (a) Be a registered private review agent in accordance with KRS 211.462; or
 - (b) Contract with a private review agent that has been registered in accordance with KRS 211.462.
 - (2) Notwithstanding any other provision of KRS 211.461 to 211.466, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
 - (a) Notice of denial has been issued. The notice shall inform patients and health-care providers of their right to appeal adverse determinations **in accordance with KRS 304.17A-500 to 304.17A-570** ~~of the private review agent to the Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet;~~ and
 - (b) The insurer is in compliance with subsection (1) of this section.
- Section 18. KRS 304.18-045 is amended to read as follows:
- (1) Every health insurer proposing to issue or deliver in this state a group or blanket health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:
 - (a) Be a registered private review agent in accordance with KRS 211.462; or
 - (b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

- (2) Notwithstanding any other provision of KRS 211.461 to 211.466, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

- (a) Notice of denial has been issued. The notice shall inform patients and health-care providers of their right to appeal adverse determinations *in accordance with KRS 304.17A-500 to 304.17A-570*~~[of the private review agent to the Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet];~~ and
- (b) The insurer is in compliance with subsection (1) of this section.

Section 19. KRS 304.32-147 is amended to read as follows:

- (1) Every nonprofit hospital, medical-surgical, dental, and health service corporation proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:
- (a) Be a registered private review agent in accordance with KRS 211.462; or
- (b) Contract with a private review agent that has been registered in accordance with KRS 211.462.
- (2) Notwithstanding any other provision of KRS 211.461 to 211.466, a nonprofit hospital, medical-surgical, dental, and health service corporation shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
- (a) Notice of denial has been issued. The notice shall inform patients and health-care providers of their right to appeal adverse determinations *in accordance with KRS 304.17A-500 to 304.17A-570*~~[of the private review agent to the Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet];~~ and
- (b) The nonprofit hospital, medical-surgical, dental, and health service corporation is in compliance with subsection (1) of this section.

Section 20. KRS 304.38-225 is amended to read as follows:

- (1) Every health maintenance organization in this state which provides coverage of hospital benefits and requires the utilization review of such benefits or administers a health benefit program which provides for the coverage of hospital benefits and requires the utilization review of such benefits by a private review agent shall:
- (a) Be a registered private review agent in accordance with KRS 211.462; or
- (b) Contract with a private review agent that has been registered in accordance with KRS 211.462.
- (2) Notwithstanding any other provision of KRS 211.461 to 211.466, a health maintenance organization shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
- (a) Notice of denial has been issued. The notice shall inform patients and health-care providers of their right to appeal adverse determinations *in accordance with KRS 304.17A-500 to 304.17A-570*~~[of the private review agent to the Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet];~~ and
- (b) The health maintenance organization is in compliance with subsection (1) of this section.

Section 21. This Act may be cited as the Health Care Protection Act.

The Committee Substitute No. 1 to **HB 390** is as follows:

HB 390. AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

- (1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:
1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and
 2. Benefit coverage is therefore denied, reduced, or terminated.
- (b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

- (2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;
- (3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;
- (4) "Covered person" means a person covered under a health benefit plan;
- (5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in Sections 12, 13, and 14 of this Act;
- (6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and for purposes of Sections 1 to 17 of this Act includes short-term coverage policies.
- (7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under Sections 12, 13, and 14 of this Act. An independent review entity which is accredited by the National Commission on Quality Assurance, the American Accreditation Health Care Commission, or another nationally recognized accreditation organization as identified by the department shall be deemed certified by the department;
- (8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance origination; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;
- (9) "Internal appeals process" means a formal process, as set forth in Section 9 of this Act, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;
- (10) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;
- (11) "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;
- (12) "Provider" shall have the same meaning as set forth in KRS 304.17A-005;
- (13) "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria.
- (14) "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review.
- (15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;
- (16) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review.
- (17) "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17 of this Act shall apply to any insurer that covers citizens of the Commonwealth under a health benefit plan. An insurer shall maintain written procedures for:

- (1) Determining whether a requested service, treatment, drug, or device is covered under the terms of a covered person's health benefit plan;
- (2) Making utilization review determinations; and
- (3) Notifying covered persons, authorized persons, and providers acting on behalf of covered persons of its determinations.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Sections 1, 2, 3, 4, 5, 6, 7, and 8 of this Act set forth the requirements and procedures regarding utilization review and shall apply to:
 - (a) Any insurer or its private review agent that provides or performs utilization review in connection with a health benefit plan; and
 - (b) Any private review agent that performs utilization review functions on behalf of any person providing or administering health benefit plans.
- (2) Where an insurer or its agent provides or performs utilization review, and in all instances where internal appeals as set forth in Section 9 of this Act, are involved, the insurer or its agent shall be responsible for:
 - (a) Monitoring all utilization reviews and internal appeals carried out by or on behalf of the insurer;
 - (b) Ensuring that all requirements of Sections 1 to 17 of this Act are met;
 - (c) Ensuring that all administrative regulations promulgated in accordance with Sections 5, 7, and 15 of this Act are complied with; and
 - (d) Ensuring that appropriate personnel have operational responsibility for the performance of the insurer's utilization review plan.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:
 - (a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;
 - (b) Ensure that only licensed physicians shall:
 1. Make a utilization review decision (determination) to deny, reduce, limit, or terminate a health care benefit or to deny, or reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and
 2. Supervise qualified personnel conducting case reviews;
 - (c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;
 - (d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act Subtitle F sec. 261-264 and 45 C.F.R. sections 160 to 164 and other applicable laws and administrative regulations;
 - (e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agency and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;
 - (f) Be available twenty-four (24) hours a day, seven (7) days a week to conduct:
 1. Preadmission review of an emergency admission, if preauthorization is required for emergency admissions or use of an emergency room;
 2. Preauthorization of weekend admissions to a hospital, or to review services delivered on the weekend or after normal business hours, if the covered person is subject to preauthorization on weekends or after normal business hours; and
 3. Review of a patient's continued hospitalization, if a prior authorization will expire on a weekend;
 - (g) Provide responses to covered persons, authorized persons, and all providers on appeals of adverse

determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with Section 5 of this Act;

(h) Provide a utilization review decision:

1. Within twenty-four (24) hours of a request for:
 - a. Preadmission review of a hospital admission, unless additional information is needed;
 - b. Preauthorization of treatment when the covered person is already hospitalized; or
 - c. Retrospective review of an emergency hospital admission;
2. Within two (2) business days of a receipt of a request for preauthorization for a treatment, procedure, drug, or device;
3. Within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire; and
4. Within twenty (20) business days of the receipt of requested medical information when the insurer or private review agent has initiated a retrospective review;

(i) Provide written notice of review decisions to the covered person, authorized person, and providers. An insurer or agent that denies coverage or reduces payment for a treatment, procedure, drug, or device shall include in the written notice:

1. A statement of the specific medical and scientific reasons for denial or reduction of payment;
2. The name, state of licensure, medical license number, and the title of the reviewer making the decision;
3. A description of other alternative treatments, services, or supplies covered by the health benefit plan; and
4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in Section 9 of this Act, stating, at a minimum, whether the appeal shall be in writing, time limitations, or schedules for filing appeals, and the name and phone number of a contact person who can provide additional information;

(j) Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and

(k) Comply with its own policies and procedures on file with the department.

- (2) The insurer's failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in Section 9 of this Act. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.
- (3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective until thirty (30) days after it has been filed with and approved by the commissioner.
- (4) A private review agent shall provide to the department the names of the entities for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate emergency administrative regulations regarding utilization review and internal review, including the specification of information required of insurers and private review agents which shall, at a minimum, include:

- (1) A utilization review plan that includes information utilized for conducting preadmission, admission, readmission review, preauthorization, continued stay authorization, and retrospective review that, for each type of review, includes:
 - (a) Utilization review policies and procedures to evaluate proposed or delivered medical services;
 - (b) Time frames for review;
 - (c) A written summary describing the review process and required forms;
 - (d) Documentation of qualifications of personnel who developed the specific utilization review procedures relating to specialty and subspecialty areas;
 - (e) Descriptions and names of review criteria upon which utilization review decisions are based; and
 - (f) Additional standards, if any, for the consideration of special circumstances.
- (2) The type and qualifications of the personnel either employed or under contract to perform utilization review;

- (3) Assurance that a toll-free line will be provided that covered persons, authorized persons, and providers may use to contact the insurer or private review agent;
- (4) The policies and procedures to ensure that a representative of the insurer or private review agent shall be reasonably accessible to covered persons, authorized persons, and providers at least forty (40) hours per week during normal business hours;
- (5) The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;
- (6) A copy of the materials designed to inform covered persons, authorized persons, and providers of the toll-free number and the requirements of the utilization review plan;
- (7) A list of the entities for which the private review agent is performing utilization review in this state; and
- (8) Evidence of compliance or the ability to comply with the requirements and procedures established regarding utilization review and the administrative regulations promulgated thereunder.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A utilization review decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer or its designee for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person, authorized person, or the provider.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) The department shall, through the promulgation of emergency administrative regulations, develop a process:
 - (a) For the review of applications for registration of insurers or private review agents seeking to conduct utilization reviews;
 - (b) For the review of applications for insurers or private review agents seeking registration renewal to continue as a utilization review entity; and
 - (c) Ensuring that no registration shall be approved unless the commissioner has documentation or findings that all applicants seeking registration or renewal to conduct utilization review are in compliance with the requirements and procedures established regarding utilization review, and as to renewals, have complied with Sections 1 to 17 of this Act and administrative regulations promulgated to enforce and to administer Sections 1 to 17 of this Act.
- (2) The registration issued in accordance with this section expires on the second anniversary of the effective date unless it is renewed.
- (3) The registration issued under this section is not transferable.
- (4) The commissioner may revoke or suspend the utilization review registration of any insurer or private review agent who does not comply with the requirements and procedures established regarding utilization review or any administrative regulations promulgated thereunder.
- (5) The department shall establish reporting requirements to:
 - (a) Evaluate the effectiveness of insurers and private review agents; and
 - (b) Determine if the utilization review plans are in compliance with the requirements and procedures established regarding utilization review and applicable administrative regulations.
- (6) Upon request of any provider, authorized person, or covered person whose care is subject to review, the department shall provide copies of policies or procedures of any insurer or private review agent that has been issued a registration by the department to conduct review in this state.
- (7) Notwithstanding any provision to the contrary, an insurer or private review agent currently registered and in good standing under the provisions of KRS Chapter 311 shall be deemed in compliance with requirements and procedures established in Sections 1 to 17 of this Act regarding utilization review and registered accordingly.
- (8) For reviewing any written complaints from covered persons, authorized persons, or providers stating that an insurer or a private review agent has failed to perform a review in accordance with the utilization review plan or the requirements and procedures established regarding utilization review, or administrative regulations promulgated thereunder, the commissioner shall:
 - (a) Send a copy of the complaint to the insurer or the private review agent within ten (10) days of receipt of the complaint, and require that any written reply be sent to the commissioner within ten (10) days; and
 - (b) Review the complaint and any written reply received from the insurer or private review agent within the time frames set forth in paragraph (a) of this subsection and make a recommendation to the insurer or private review agent and the covered person, authorized person, or provider.

- (9) The commissioner shall consider complaints before issuing or renewing any registration or renewal of a registration to an insurer or a private review agent.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) No insurer or any other person providing or administering a health benefit plan shall deny or reduce payment for a service, procedure, treatment, drug or device covered under the covered person's health benefit plan if:
- (a) The covered person's provider, during normal business hours, contacts the insurer, the designee, or agent on the day the covered person is expected to be discharged, in order to request review of the covered person's continued hospitalization, and the insurer, designee, or agent fails to provide a timely utilization review decision as required by Section 4 of this Act; or
 - (b) The covered person's provider makes at least three (3) documented attempts during a four (4) consecutive hour period to contact the insurer, designee, or agent, during normal business hours in order to request review of a continued hospital stay, preauthorization of treatment for a covered person who is already hospitalized, or retrospective review of an emergency hospital admission where the covered person remains hospitalized at the time the review requested is made, and the insurer, designee, or private review agent fails to be accessible as required by Section 4 of this Act.
- (2) The insurer's liability to pay for the covered person's hospitalization under the circumstances set forth in subsection (1) of this section shall extend until the insurer, designee, or private review agent issues a utilization review decision.
- (3) The insurer's liability to pay under this section shall be conditioned on :
- (a) The provider establishing verifiable documentation of the contact with, and subsequent failure of the insurer, designee, or agent to make the utilization review decision as set forth in subsection (1)(a) of this section; or
 - (b) The provider establishing verifiable documentation of the attempt to make contact with the insurer, designee, or agent as addressed in subsection (1)(b) of this section.
- (4) In either instance, the contact, or attempts to contact, as set forth in this section, shall be made by the means required by the insurer, designee, or agent for requesting utilization review.
- (5) This section applies only when the request for review concerns covered health benefits and it shall not supersede any limitations or exclusions in the covered person's health benefit plan. This section shall not apply if, in requesting a review, the provider does not furnish the information requested by the insurer or agent to make a utilization review decision, or if actions by the provider impede an insurer's or private review agent's ability to issue a utilization review decision.

SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and Section 10 of this Act and which shall be disclosed to covered persons in accordance with subsection (1)(g) of Section 20 of this Act. An insurer shall disclose the availability of the internal review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in subsection (1)(i) of Section 4 of this Act. For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to meeting the requirements of subsection (1)(i) of Section 4 of this Act, the required notice shall contain instructions for filing a request for review by the department, should the denial be upheld on internal appeal.
- (2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a minimum, these procedures shall include the following:
- (a) Insurers or their designees shall provide responses to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of the request for internal appeal;
 - (b) Insurers or their designees shall render a decision not later than three (3) business days after the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:
 - 1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;
 - 2. Serious impairment to bodily functions; or

3. Serious dysfunction of a bodily organ or part;

- (c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;
- (d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;
- (e) To facilitate expeditious handling of an appeal of an adverse determination or a coverage denial, an insurer or agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the covered person and provider with a denial letter that shall include:
 - 1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;
 - 2. The name, state of licensure, medical license number, and the title of the person making the decision;
 - 3. A description of other alternative treatments, services, or supplies covered by the health benefit plan, if any; and
 - 4. Instructions for initiating an internal appeal of the adverse determination, or filing a request for review with the department where a coverage denial is upheld by the insurer on internal appeal.
- (3) The department shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in Section 1 of this Act or subsequent denials arising from an adverse determination.
 - (a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the department shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the department regarding the request for review within five (5) days receipt of notice to the insurer;
 - (b) Within five (5) days of receiving the notice of the request for review from the department, the insurer shall provide to the department the following information:
 - 1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person on the date of service under a health benefit plan issued by the insurer;
 - 2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and
 - 3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;
 - (c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the department any information requested by the department that is germane to its review;
 - (d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the department is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the department determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under Section 11, 12, and 13 of this Act, where the conditions precedent to the review are present. If the department notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) If the covered person, authorized person, or provider has new clinical information regarding the covered person's internal appeal he or she shall provide that information to the insurer prior to the initiation of the external review process. The insurer shall have five (5) business days from the date of the receipt of the information to render a decision based on the new information. If new information is provided in accordance with this section, the sixty (60) day time frame for commencing an external review as set forth in subsection (4) of Section 12 of this Act, shall not begin to run, until the insurer or its designee renders a decision regarding the new information.
- (2) The insurer's failure to make a determination or provide a written notice within the time frames set forth in Section 9

of this Act shall be deemed to be an adverse determination by the insurer for the purpose of initiating an external review as set forth in Section 12 of this Act.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The Independent External Review Program is hereby established in the department. The program shall provide covered persons with a formal, independent review to address disagreements between the covered person and the covered person's insurer regarding an adverse determination made by the insurer, its designee, or a private review agent. This section and Sections 12 and 13 establish requirements and procedures governing external review and independent review entities.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Every insurer shall have an external review process to be utilized by the insurer or its designee, consistent with this section and which shall be disclosed to covered persons in accordance with subsection (1)(g) of Section 20 of this Act. An insurer, its designee, or agent shall disclose the availability of the external review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial as set forth in subsection (1)(i) of Section 4 and subsections (1) and (2)(e) of Section 9 of this Act. For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan.
- (2) A covered person, an authorized person, or a provider acting on behalf of and with the consent of the covered person, may request an external review of an adverse determination rendered by an insurer, its designee, or agent.
- (3) The insurer shall provide for an external review of an adverse determination if the following criteria are met:
 - (a) The insurer, its designee, or agent has rendered an adverse determination;
 - (b) The covered person has completed the insurer's internal appeal process, or the insurer has failed to make a timely determination or notification as set forth in Section 9 of this Act. The insurer and the covered person may however, jointly agree to waive the internal appeal requirement;
 - (c) The covered person was enrolled in the health benefit plan on the date of service or, if a prospective denial, the covered person was enrolled and eligible to receive covered benefits under the health benefit plan on the date the proposed service was requested; and
 - (d) The entire course of treatment or service will cost the covered person at least one hundred dollars (\$100) if not covered by the insurer.
- (4) The covered person, an authorized person, or a provider with consent of the covered person shall submit a request for external review to the insurer within sixty (60) days, except as set forth in Section 10 of this Act, of receiving notice that an adverse determination has been timely rendered under the insurer's internal appeal process. As part of the request, the covered person shall provide to the insurer or its designee written consent authorizing the independent review entity to obtain all necessary medical records from both the insurer and any provider utilized for review purposes regarding the decision to deny, limit, reduce or terminate coverage.
- (5) The covered person shall be assessed a one (1) time filing fee of twenty-five dollars (\$25) to be paid to the independent review entity and which may be waived if the independent review entity determines that the fee creates a financial hardship on the covered person. The fee shall be refunded if the independent review entity finds in favor of the covered person.
- (6) A covered person shall not be afforded an external review of an adverse determination if:
 - (a) The subject of the covered person's adverse determination has previously gone through the external review process and the independent review entity found in favor of the insurer; and
 - (b) No relevant new clinical information has been submitted to the insurer since the independent review entity found in favor of the insurer.
- (7) The department shall establish a system for each insurer to be assigned an independent review entity for external reviews. The system established by the department shall be prospective and shall require insurers to utilize independent review entities on a rotating basis so that an insurer does not have the same independent review entity for two (2) consecutive external reviews.
- (8) (a) If a dispute arises between an insurer and a covered person regarding the covered person's right to an external review, the covered person may file a complaint with the department. Within five (5) days of receipt of the complaint, the department shall render a decision and may direct the insurer to submit the dispute to an independent review entity for an external review if it finds:
 1. The dispute involves denial of coverage based on medical necessity or the service being experimental or investigational; and
 2. All of the requirements of subsection (3) of this section have been met.

- (b) The complaint process established in this section shall be separate and distinct from, and shall in no way limit other grievance or complaint processes available to consumers under other provisions of the KRS or duly promulgated administrative regulations. This complaint process shall not limit, alter, or supplant the mechanisms for appealing coverage denials established in Section 9 of this Act.
- (9) The external review process shall be confidential and shall not be subject to KRS 61.805 to 61.850 and KRS 61.870 to 61.884.
- (10) External reviews shall be conducted in an expedited manner by the independent review entity if the covered person is hospitalized, or if, in the opinion of the treating provider, review under the standard time frame could, in the absence of immediate medical attention, result in any of the following:
 - (a) Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or her unborn child in serious jeopardy;
 - (b) Serious impairment to bodily functions; or
 - (c) Serious dysfunction of a bodily organ or part.
- (11) Requests for expedited external review, shall be forwarded by the insurer to the independent review entity within twenty-four (24) hours of receipt by the insurer.
- (12) For expedited external review, a determination shall be made by the independent review entity within twenty-four (24) hours from the date of its receipt of notice of the adverse determination from the insurer. An extension of up to twenty-four (24) hours may be allowed if the covered person and the insurer or its designee agree. The insurer or its designee shall provide notice to the independent review entity and to the covered person, by same-day communication, that the adverse determination has been assigned to an independent review entity for expedited review.
- (13) External reviews which are not expedited shall be conducted by the independent review entity and a determination made within twenty-one (21) calendar days of receipt of the request for external review. An extension of up to fourteen (14) calendar days may be allowed if the covered person and the insurer are in agreement.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) In making its decision, an independent review entity conducting the external review shall take into account all of the following:
 - (a) Information submitted by the insurer, the covered person, the authorized person, and the covered person's provider, including the following:
 - 1. The covered person's medical records;
 - 2. The standards, criteria, and clinical rationale used by the insurer to make its decision; and
 - 3. The insurer's health benefit plan.
 - (b) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations, including the National Institutes of Health, or any board recognized by the National Institutes of Health, the National Cancer Institute, the National Academy of Sciences, and the United States Food and Drug Administration, the Health Care Financing Administration of the United States Department of Health and Human Services, and the Agency for Health Care Research and Policy; and
 - (c) Relevant findings in peer-reviewed medical or scientific literature, published opinions of nationally recognized medical specialists, and clinical guidelines adopted by relevant national medical societies.
- (2) The independent review entity shall base its decision on the information submitted under subsection (1) of this section. In making its decision, the independent review entity shall consider safety, appropriateness, and cost effectiveness.
- (3) The insurer shall provide any coverage determined by the independent review entity to be medically necessary. The independent review entity shall not be permitted to allow coverage for services specifically limited or excluded by the insurer in its health benefit plan. The decision shall apply only to the individual covered person's external review.
- (4) Nothing in this section shall be construed as requiring an insurer to provide coverage for out of network services, procedures, or tests, except as set forth in KRS 304.17A-515(1)(c) and 304.17A-550.
- (5) The insurer shall be responsible for the cost of the external review.
- (6) The independent review entity shall provide to the covered person, treating provider, insurer, and the department a decision which shall include:
 - (a) The findings for either the insurer or covered person regarding each issue under review;
 - (b) The proposed service, treatment, drug, device, or supply for which the review was performed;
 - (c) The relevant provisions in the insurer's health benefit plan and how applied; and
 - (d) The relevant provisions of any nationally recognized and peer-reviewed medical or scientific documents used in the external review.

- (7) The decision of the independent review entity shall not be made solely for the convenience of the insurer, the covered person, or the provider.
- (8) Consistent with the rules of evidence, a written decision prepared by an independent review entity shall be admissible in any civil action related to the adverse determination. The independent review entity's decision shall be presumed to be a scientifically valid and accurate description of the state of medical knowledge at the time it was written.
- (9) The decision of the independent review entity shall be binding on the insurer with respect to that covered person. Failure of the insurer to provide coverage as required by the independent review entity shall:
 - (a) Be a violation of the insurance code of a nature sufficient to warrant the commissioner revoking or suspending the insurer's license or certificate of authority; and
 - (b) Constitute an unfair claims settlement practice as set forth in Section 18 of this Act.
- (10) Failure to provide coverage as required by the independent review entity shall also subject the insurer to the provisions of KRS 304.99-010 and 304.99-020 and require the insurer to pay the claim that was the subject of the external review, without need for the covered person or authorized person to further establish a right as to the payment amount. Reasonable attorney fees associated with the actions of the insured necessary to collect amounts owed the covered person shall be assessed against and borne by the insurer.
- (11) An independent review entity and any medical specialist the entity utilizes in conducting an external review shall not be liable in damages in a civil action for injury, death, or loss to person or property and is not subject to professional disciplinary action for making, in good faith, any finding, conclusion, or determination required to complete the external review. This subsection does not grant immunity from civil liability or professional disciplinary action to an independent review entity or medical specialist for an action that is outside the scope of authority granted in Sections 11, 12, and 13 of this Act.
- (12) Nothing in Sections 1 to 17 of this Act shall be construed to create a cause of action against any of the following:
 - (a) An employer that provides health care benefits to employees through a health benefit plan;
 - (b) A medical expert, private review agent, or independent review entity that participates in the utilization review, internal appeal, or external review addressed in Sections 1 to 17 of this Act; or
 - (c) An insurer or provider acting in good faith and in accordance with any finding, conclusion, or determination of an Independent Review Entity acting within the scope of authority set forth in Sections 11, 12, and 13 of this Act.
- (13) The covered person, insurer, or provider in the external review may submit written complaints to the department regarding any independent review entity's actions believed to be an inappropriate application of the requirements set forth in Sections 11, 12, and 13 of this Act. The department shall promptly review the complaint, and if the department determines that the actions of the independent review entity were inappropriate, the department shall take corrective measures, including decertification or suspension of the independent review entity from further participation in external reviews. The department's actions shall be subject to the powers and administrative procedures set forth in subtitle 17A of KRS Chapter 304.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) To be certified as an independent review entity under this chapter, an organization shall submit to the department an application on a form required by the department. The application shall include the following:
 - (a) The name of each stockholder or owner of more than five percent (5%) of any stock or options for an applicant;
 - (b) The name of any holder of bonds or notes of the applicant that exceeds one hundred thousand dollars (\$100,000);
 - (c) The name and type of business of each corporation or other organization that the applicant controls or with which it is affiliated and the nature and extent of the affiliation or control;
 - (d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under paragraph (c) of this subsection and a description of any relationship the named individual has with an insurer as defined in Section 1 of this Act or a provider of health care services;
 - (e) The percentage of the applicant's revenues that are anticipated to be derived from independent reviews;
 - (f) A description of the minimum qualifications employed by the independent review entity to select health care professionals to perform external review, their areas of expertise, and the medical credentials of the health care professionals currently available to perform external reviews; and
 - (g) The procedures to be used by the independent review entity in making review determinations; and
- (2) If at any time there is a material change in the information included in the application, provided for in subsection (1) of this section, the independent review entity shall submit updated information to the department.
- (3) The independent review entity shall annually submit to the department the information required by subsection (1) of

this section in a form acceptable to the department.

- (4) An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by an insurer or a trade or professional association of payors.
- (5) An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by a trade or professional association of providers.
- (6) Physicians who are acting as reviewers for the independent review entity shall hold in good standing a nonrestricted license in a state of the United States.
- (7) Physicians who are acting as reviewers for the independent review entity shall hold a current certification by a recognized American medical specialty board in the area appropriate to the subject of the review, be a specialist in the treatment of the covered person's medical condition under review, and have actual clinical experience in that medical condition.
- (8) The independent review entity shall have a quality assurance mechanism to ensure the timeliness and quality of the review, the qualifications and independence of the physician reviewer, and the confidentiality of medical records and review material.
- (9) Neither the independent review entity nor any reviewers of the entity, shall have any material, professional, familial, or financial conflict of interest with any of the following:
 - (a) The insurer involved in the review;
 - (b) Any officer, director, or management employee of the insurer;
 - (c) The provider proposing the service or treatment or any associated independent practice association;
 - (d) The institution at which the service or treatment would be provided;
 - (e) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review; or
 - (f) The covered person.
- (10) As used in this section, "conflict of interest" shall not be interpreted to include:
 - (a) A contract under which an academic medical center or other similar medical center provides health care services to covered persons, except for academic medical centers that may provide the service under review;
 - (b) Provider affiliations which are limited to staff privileges; or
 - (c) A specialist reviewer's relationship with an insurer as a contracting health care provider, except for a specialist reviewer proposing to provide the service under review.
- (11) On an annual basis, the independent review entity shall report to the department the following information:
 - (a) The number of independent review decisions in favor of covered persons ;
 - (b) The number of independent review decisions in favor of insurers;
 - (c) The average turnaround time for an independent review decision;
 - (d) The number of cases in which the independent review entity did not reach a decision in the time specified in statute or administrative regulation; and
 - (e) The reasons for any delay.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations to implement the provisions of Sections 11,12 13, 14, 15, and 16 of this Act.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Insurers subject to the administrative regulations required under Section 15 of this Act shall have no less than ninety (90) days to comply with the provisions of the administrative regulations.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall report every six (6) months to the Interim Joint Committee on Banking and Insurance, and to the Governor on the state of the Independent External Review Program. The report shall include a summary of the number of reviews conducted, medical specialties affected, and a summary of the findings and recommendations made by the independent external review entity.

Section 18. KRS 304.12-230 is amended to read as follows:

It is an unfair claims settlement practice for any person to commit or perform any of the following acts or omissions:

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
- (10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;
- (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; ~~or~~
- (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; or
- (15) Failing to comply with the decision of an independent review entity to provide coverage for a covered person as a result of an external review in accordance with Sections 11, 12, and 13 of this Act.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 19, 20, 21, 22, and 23 of this Act "Emergency medical condition" means:

- (1) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson would reasonably have cause to believe constitutes a condition that the absence of immediate medical attention could reasonably be expected to result in:
 - (a) Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;
 - (b) Serious impairment to bodily functions; or
 - (c) Serious dysfunction of any bodily organ or part; or
- (2) With respect to a pregnant woman who is having contractions:
 - (a) A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or
 - (b) A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Where a covered person with an emergency medical condition has been stabilized, as required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 42 U.S.C. sec. 300bb, in the emergency department of a nonparticipating hospital, and an insurer under its health benefit plan requires prior authorization for poststabilization treatment, approval or denial under the preauthorization requirement shall be provided in a timely manner appropriate to conditions of the patient and delivery of the services, but in no case to exceed two (2) hours from the time the request is made and all relevant information is provided. The insurer's failure to make a determination within the two (2) hour time frame, shall constitute an authorization for the hospital to provide the medical service for which prior authorization was sought.
- (2) The nonparticipating hospital providing emergency room services, poststabilization treatment, or both, shall be paid at the rate established for those services under the covered person's certificate of coverage.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) "Special circumstances" includes a circumstance in which a covered person has a disability, a life-threatening illness, or is past the twenty-fourth week of pregnancy where disruption of the covered person's continuity of care could cause medical harm.
- (2) Any special circumstance shall be identified by the treating provider, who may request, with the concurrence of the covered person, that the covered person be permitted to continue treatment under the provider's care even when the provider is no longer participating in the network, unless the provider has been terminated for a reason related to quality. The treating, nonnetwork provider shall agree to care for the covered person under the same guidelines and payment schedule as required by the plan, and shall report to the plan on the care being provided.
- (3) Procedures for resolving disputes regarding the necessity for continued treatment by a provider shall be established by the plan and shall provide for review through the plan's internal appeal process.
- (4) This section does not extend the obligation of the plan to pay a terminated or nonrenewed provider for ongoing treatment of a covered person with "special circumstances":

 - (a) Beyond the ninetieth day after the effective date of the termination or nonrenewal;
 - (b) Beyond nine (9) months in the case of a covered person who at the time of the termination has been diagnosed with a terminal illness; or
 - (c) If the covered person is beyond the twenty-fourth week of pregnancy, the plan's obligation to pay for services extends through the delivery of the child, immediate postpartum care, and examination within the first six (6) weeks following delivery.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall not, under its health benefit plan prohibit a primary care physician from authorizing a covered person's referral to a participating nonprimary care physician specialist. A primary care physician treating a covered person who has a chronic, disabling, or life-threatening condition may authorize a referral to a participating nonprimary care physician specialist, up to twelve (12) months or for the contract period, whichever is shorter. Under this referral arrangement the covered person shall have direct access to the nonprimary care physician specialist, without the need of further contact or referral by the primary care physician.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer shall not, under its health benefit plan prohibit a primary care physician from authorizing a covered person's referral to a participating obstetrician or gynecologist. A primary care physician treating a covered person who is pregnant or has a chronic gynecological condition may authorize a referral to a participating obstetrician or gynecologist, up to twelve (12) months or for the contract period, whichever is shorter. Under this referral arrangement the covered person shall have direct access to the obstetrician or gynecologist, without the need of further contact or referral by the primary care physician.
- (2) A female covered person shall be covered for an annual pap smear performed by an obstetrician or gynecologist without a referral from a primary care provider.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations necessary to implement the provisions of Sections 19, 20, 21, 22, and 23 of this Act.

Section 25. KRS 304.17A-520 is amended to read as follows:

- (1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.
- (2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.
- (3) Women shall be able to choose a qualified health care provider offered by a plan for the provision of covered care necessary to provide routine and preventive women's health care services.
- (4) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion. Obtaining the second opinion shall not cost a covered person more than the covered person's normal copay.

Section 26. KRS 304.17-412 is amended to read as follows:

- (1) Every health insurer proposing to issue or deliver in this state a health insurance policy or contract or administer a health

benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by an insurer, its designee, or a private review agent shall:

- (a) Be ~~a~~ registered ~~private review agent~~ in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act ~~[KRS 211.462]~~; or
 - (b) Contract with a private review agent that has been registered in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act ~~[KRS 211.462]~~.
- (2) Notwithstanding any other provision of Sections 2, 3, 4, 5, 6, 7, and 8 of this Act ~~[KRS 211.461 to 211.466]~~, an insurer or its designee shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
- (a) Notice of denial has been issued. The notice shall inform patients, authorized persons, and health-care providers of their right to appeal adverse determinations of a utilization review by the insurer, its designee, or private review agent to the insurer for the internal review process established by the insurer in accordance with Sections 9 and 10 of this Act ~~[Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)]~~. The notice shall also include instructions on filing an internal appeal ~~[to the cabinet]~~; and
 - (b) The insurer is in compliance with subsection (1) of this section.

Section 27. KRS 304.17A-505 is amended to read as follows:

An insurer shall disclose in writing to a covered person and an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health benefit plan ~~[insurance contract]~~ and shall promptly provide the covered person and enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

- (1) The information required to be disclosed under this section shall include a description of:
- (a) Covered services and benefits to which the enrollee or other covered person is entitled;
 - (b) Restrictions or limitations on covered services and benefits;
 - (c) Financial responsibility of the covered person, including copayments and deductibles;
 - (d) Prior authorization and any other review requirements with respect to accessing covered services;
 - (e) Where and in what manner covered services may be obtained;
 - (f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;
 - (g) The covered person's right to the following:
 - 1. A utilization review ~~[appeal]~~ and the procedure for initiating a utilization review, if an insurer elects to provide utilization review;
 - 2. An internal appeal of a utilization review ~~[management decision]~~ made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service, and the procedure to initiate an internal appeal; and
 - 3. An external review and the procedure to initiate the external review process.
- ~~(h) [The procedure to initiate an appeal through the process under KRS 211.464(1)(g);~~
- ~~(i) [Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and~~
- ~~(j) [Other information as the commissioner shall require by administrative regulation.~~

- (2) The insurer shall file the information required under this section with the department.

Section 28. KRS 304.18-045 is amended to read as follows:

- (1) Every health insurer proposing to issue or deliver in this state a group or blanket health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by an insurer, its designee, or a private review agent shall:
- (a) Be ~~a~~ registered ~~private review agent~~ in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act ~~[KRS 211.462]~~; or
 - (b) Contract with a private review agent that has been registered in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act ~~[KRS 211.462]~~.
- (2) Notwithstanding any other provision of Sections 2, 3, 4, 5, 6, 7, and 8 of this Act ~~[KRS 211.461 to 211.466]~~, an insurer or its designee shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
- (a) Notice of denial has been issued. The notice shall inform patients, authorized persons, and health-care providers of their right to appeal adverse determinations of a utilization review by the insurer, its designee, or private review

agent to the insurer for the internal review process established by the insurer in accordance with Sections 9 and 10 of this Act~~[Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)]~~. The notice shall also include instructions on filing an internal appeal~~[to the cabinet]~~; and

- (b) The insurer is in compliance with subsection (1) of this section.

Section 29. KRS 304.32-147 is amended to read as follows:

- (1) Every nonprofit hospital, medical-surgical, dental, and health service corporation proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:
 - (a) Be a registered private review agent in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~; or
 - (b) Contract with a private review agent that has been registered in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~.
- (2) Notwithstanding any other provision of Sections 2, 3, 4, 5, 6, 7, and 8 of this Act~~[KRS 211.461 to 211.466]~~, a nonprofit hospital, medical-surgical, dental, and health service corporation shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
 - (a) Notice of denial has been issued. The notice shall inform patients, authorized persons, and health-care providers of their right to appeal adverse determinations of a utilization review by the insurer, its designee, or private review agent to the insurer for the internal appeal process established by the insurer in accordance with Sections 9 and 10 of this Act~~[Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)]~~. The notice shall also include instructions on filing an appeal to the cabinet; and
 - (b) The nonprofit hospital, medical-surgical, dental, and health service corporation is in compliance with subsection (1) of this section.

Section 30. KRS 304.32-330 is amended to read as follows:

- (1) Every employer in this state which provides coverage of hospital benefits on a self-insured basis and requires the utilization review of such benefits by an insurer, its designee, or a private review agent shall:
 - (a) Be a registered private review agent in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~; or
 - (b) Contract with a private review agent that has been registered in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~.
- (2) Notwithstanding any other provision of Sections 2, 3, 4, 5, 6, 7, and 8 of this Act~~[KRS 211.461 to 211.466]~~, a self-insured employer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
 - (a) Notice of denial has been issued; and
 - (b) The self-insured employer is in compliance with subsection (1) of this section.

Section 31. KRS 304.38-225 is amended to read as follows:

- (1) Every health maintenance organization in this state which provides coverage of hospital benefits and requires the utilization review of such benefits or administers a health benefit program which provides for the coverage of hospital benefits and requires the utilization review of such benefits by a private review agent shall:
 - (a) Be a registered private review agent in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~; or
 - (b) Contract with a private review agent that has been registered in accordance with Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~.
- (2) Notwithstanding any other provision of Sections 2, 3, 4, 5, 6, 7, and 8 of this Act~~[KRS 211.461 to 211.466]~~, a health maintenance organization shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:
 - (a) Notice of denial has been issued. The notice shall inform patients, authorized persons, and health-care providers of their right to appeal adverse determinations of a utilization review by the insurer, its designee, or private review agent to the insurer for the internal review process established by the insurer in accordance with Sections 9 and 10 of this Act~~[Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)]~~. The notice shall also include instructions on filing an internal appeal~~[to the cabinet]~~; and
 - (b) The health maintenance organization is in compliance with subsection (1) of this section.

Section 32. KRS 304.47-050 is amended to read as follows:

- (1) Any person, other than an insurer, agent, or other person licensed under this chapter, or an employee thereof, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a

felony or misdemeanor under the subtitle is being or has been committed may send to the Division of Insurance Fraud Investigation a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.

- (2) The following individuals having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed shall send to the Division of Insurance Fraud Investigation a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or his employees or agents may require:
 - (a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;
 - (b) ~~Any utilization review of benefits committee as defined in KRS 211.462 to 211.466;~~
 - (c) Any private medical review committee;
 - (c)(d) Any insurer, agent, or other person licensed under this chapter; and
 - (d)(e) Any employee of the persons named in paragraphs (a) to (c)(d) of this subsection.
- (3) The Division of Insurance Fraud Investigation or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the division, may require further investigation. The division shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.
- (4) The Department of Workers' Claims shall provide the division access to all relevant information the commissioner may request.
- (5) The Division of Insurance Fraud Investigation shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the division of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.
- (6) Notwithstanding the provisions of subsections (1) to (5) of this section, when an insurer or an insured knows or has reasonable grounds to believe that a person committed a fraudulent insurance act which the insurer reasonably believes not to have been reported to a law enforcement agency in this state, then, for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf or the insured may notify a law enforcement agency of their knowledge or reasonable belief and provide information relevant to the fraudulent insurance act, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including statements of any person, proofs of loss, and notice of loss.
- (7) If the information referred to in subsection (6) of this section is specifically requested by a law enforcement agency or prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.
- (8) In the absence of malice, fraud, or gross negligence, no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, the Department of Workers' Claims, their respective employees, or an insured shall be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection.

Section 33. KRS 211.990 is amended to read as follows:

- (1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.
- (2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.
- (3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.
- (4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.
- (5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to

KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

- (6) ~~A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.~~
- (7) ~~Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.~~
- (8) A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.
- (7)(9) Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.
- (8)(10) The penalties provided in subsections (6), *and* (7) ~~[(8), and (9)]~~ of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.
- (9)(11) Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). Each day of violation or noncompliance shall constitute a separate offense.

Section 34. The following KRS sections are repealed:

- 211.461 Definitions.
- 211.462 Registration of private review agent required -- Exceptions.
- 211.463 Duties of private review agent regarding utilization review.
- 211.464 Regulations -- Reporting requirements -- Copies of policies or procedures -- List of registered agents.
- 211.465 Procedures for registration and renewal.
- 211.466 Enjoining operation of improperly registered agent.

HB 396, AN ACT relating to insurance premium finance companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 30 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurance premium finance company shall not sell, assign, or otherwise transfer its license to act as a premium finance company in this state.
- (2) An insurance premium finance company shall not sell, assign, or otherwise transfer a premium finance agreement unless the assignee, buyer, or transferee:
- (a) Is licensed to engage in the business of financing insurance premiums in this state;
- (b) Is exempt from the requirement to obtain a license to engage in the business of financing insurance premiums in this state under KRS 304.30-010; or
- (c) Does not, as a result of the sale, assignment, or transfer, assume the following responsibilities from the insurance premium finance company:
1. Servicing the premium finance agreement in accordance with the provisions of this subtitle; and
 2. Collecting all payments due under the provisions of the premium finance agreement.

SECTION 2. A NEW SECTION OF SUBTITLE 30 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an insurer receives written notice from an insurance agent or premium finance company, within fifteen (15) business days after receipt of the initial down payment for the coverage being financed, that the initial down payment has been dishonored by a financial institution, there shall be no valid insurance contract or contracts and the policy shall be void.

Section 3. KRS 304.30-080 is amended to read as follows:

- (1) A premium finance agreement shall:
- (a) Be dated ~~and~~ *signed by the premium finance applicant* ~~for or on behalf of the insured, and the printed portion thereof shall be in at least eight point type;~~
- (b) Be readable and intelligible, and the printed portion thereof shall be in at least eight-point, uncompressed type;
- (c) Contain the name and place of business of the insurance agent negotiating the related insurance contract, the name and residence or the place of business of the premium finance company to which payments are to be made, a description of the insurance contracts involved and the amount of the premium therefor; and
- (d) ~~(e)~~ Set forth the following items where applicable:
1. The total amount of the premium,

2. The amount of the down payment,
 3. The principal balance (the difference between items 1. and 2.),
 4. The amount of the service charge,
 5. The balance payable by the insured (sum of items 3. and 4.), and
 6. The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.
- (2) The items set out in paragraph ~~(d)~~~~(c)~~ of subsection (1) of this section need not be stated in the sequence or order in which they appear, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.
- (3) *A premium finance company may include, in the premium finance agreement, a security interest in the unearned premium due on the insurance policy in the event of a cancellation of the insurance policy. No security interest in loss payments or other insurance policy proceeds shall be permitted, except a security interest in loss payments on the insurance policy that reduce or eliminate the unearned premium.*

Section 4. KRS 304.30-090 is amended to read as follows:

- (1) A premium finance company shall not charge, contract for, receive, or collect a service charge other than as permitted by the subtitle.
- (2) The service charge is to be computed on the balance of the premiums due (after subtracting the down payment made by the insured in accordance with the premium finance agreement) from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable. *Except in the event of a default by the insured on the premium finance agreement, a premium finance company shall not charge or permit interest to accrue beyond the scheduled final installment due date.*
- (3) The service charge shall be a maximum of twelve dollars (\$12) per one hundred dollars (\$100) per year plus an additional charge of fifteen dollars (\$15) per premium finance contract which need not be refunded upon cancellation or prepayment.

Section 5. KRS 304.30-110 is amended to read as follows:

- (1) When a premium finance agreement contains a power of attorney enabling the premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be canceled by the premium finance company unless such cancellation is effectuated in *a timely manner and in* accordance with this section.
- (2) Not less than ten (10) days' written notice shall be mailed to the insured of the intent of the premium finance company to cancel the insurance contract unless the default is cured within such ten (10) day period.
- (3) After expiration of such ten (10) day period, the premium finance company may thereafter request in the name of the insured, cancellation of such insurance contract or contracts by mailing to the insurer a notice of cancellation, and the insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured himself, but without requiring the return of the insurance contract or contracts. The premium finance company shall also mail a notice of cancellation to the insured at his last known address.
- (4) All statutory, regulatory, and contractual restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee, or other third party on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.
- (5) Whenever an insurance contract is canceled in accordance with this section, the insurer shall return, *in a timely manner*, whatever gross unearned premiums are due under the insurance contract to the premium finance company effecting the cancellation for the account of the insured or insureds.
- (6) In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund such excess to the insured provided that no such refund shall be required if it amounts to less than one dollar (\$1).

HB 517, AN ACT relating to managed care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "hospitalist" means a physician of record at a hospital for a patient of a participating physician and who may return the care of the patient to that physician at the end of the hospitalization.*
- (2) *A contract between a managed care plan and a physician shall not require the mandatory use of a hospitalist.*

HB 525, AN ACT relating to medical directors of managed care plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-545 is amended to read as follows:

- (1) A managed care plan shall appoint a medical director who:
 - (a) Is a physician licensed to practice in ~~this~~the state; ~~[in which he or she is employed and who]~~
 - (b) Is in good standing with the State Board of Medical Licensure;
 - (c) Has not had his or her license revoked or suspended, under KRS 311.530 to 311.620; and
 - (d) Shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.
- (2) The medical director shall ensure that:
 - (a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service because that service is not medically necessary shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;
 - (b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;
 - (c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;
 - (d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and
 - (e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.
- (3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:
 - (a) An ongoing written, internal quality assurance or improvement program;
 - (b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;
 - (c) Performance and clinical outcomes-based criteria;
 - (d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;
 - (e) A plan for data gathering and assessment; and
 - (f) A peer review process.
- (4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.
 - (a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;
 - (b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;
 - (c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;
 - (d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

- (5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

HB 621, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 288.440 is amended to read as follows:

- (1) Each applicant at the time of making application shall pay two hundred fifty dollars (\$250) to the commissioner as a fee for investigating the application for the initial location in Kentucky, or a fee of one hundred fifty dollars (\$150) for additional locations, and the additional sum of four hundred dollars (\$400)~~three hundred seventy-five dollars (\$375)~~ as an annual license fee for each location for the period terminating on the last day of the current calendar year. If the application is filed after June 30 in any year, the payment shall be two hundred dollars (\$200)~~one hundred eighty-seven dollars (\$187)~~ as a license fee in addition to the fee for investigation.
- (2) If any person regulated by the department desires to purchase an existing licensed location or locations, the person shall submit an application to the commissioner containing the information as the commissioner may prescribe. The fee for this application shall be one hundred dollars (\$100) per location not to exceed one thousand dollars (\$1,000).

Section 2. KRS 288.450 is amended to read as follows:

- (1) The commissioner shall, after investigation, issue to the applicant a license to make loans in accordance with this chapter, if the commissioner:
- (a) Approves the form of the application;
 - (b) Finds that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant is a partnership or association, and of the officers and directors thereof if the applicant is a corporation, ~~are such as to~~ command the confidence of the community and to warrant the belief that the business of the applicant will be operated honestly, fairly, and efficiently in accordance with the purposes of this chapter; and
 - (c) Finds that the applicant has complied with KRS 288.440.
- (2) If the commissioner does not so find, he or she shall not issue a license and shall notify the applicant of the denial and return the sum paid by the applicant as a license fee, retaining the two hundred fifty dollars (\$250)~~(\$50)~~ investigation fee to cover the cost of investigating the application.
- (3) The commissioner shall approve or deny every application for license within sixty (60) days from the filing thereof with the fees unless the time is extended by a written agreement between the applicant and the commissioner. If the commissioner denies a license, the applicant may appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) The official record of the hearing shall be filed in the office of the commissioner as public records, open to public inspection.

Section 3. KRS 288.460 is amended to read as follows:

- (1) Every license shall state the address of the office at which the business is to be conducted, the name of the licensee, and if the licensee is a partnership or association, and the names of the members thereof, ~~and if a corporation, the date and place of its incorporation~~.
- (2) The license shall be kept displayed in the office of the licensee and shall not be transferable or assignable. Not more than one (1) place of business shall be maintained under the same license but the commissioner may issue more than one (1) license to the same licensee upon compliance with all the provisions of this chapter for each license; provided, however, nothing herein shall be deemed to require a license for any place of business devoted to accounting, record-keeping or administrative purposes.
- (3) Whenever a licensee desires to change his or her place of business to another location within the same county ~~the~~such licensee shall give written notice to the commissioner, who, if he or she finds that the interests of the community will be served thereby, shall indorse on the license a transfer to the new place of business, with the date of transfer, which indorsement shall be authority for the operation of ~~the~~such business at the new location. No change in the place of business of a licensee to a location outside of the original county shall be permitted under the same license.

Section 4. KRS 288.533 is amended to read as follows:

Notwithstanding the provisions of KRS 288.530(10) or of any other law, in any extension of credit in accordance with~~pursuant to~~ KRS Chapter 288, the licensee may charge and collect the following:

- (1) A fee, or premium for insurance, in lieu of perfecting a security interest to the extent that the fee or premium does not exceed the fee payable to public officials for perfecting the security interest; and
- (2) A bad check charge of fifteen dollars (\$15), or the amount passed on from other financial institutions, whichever is

greater, for any check, draft, negotiable order of withdrawal, or like instrument returned or dishonored for any reason by a depository institution, which charge licensee may charge and collect, through regular billing procedures, or otherwise from the borrower; and

- (3) A reasonable attorney's fee, in connection with the collection of a loan, actually incurred by the licensee and paid to an attorney who is not an employee of the licensee; ~~and~~
- (4) A charge for credit investigations of one dollar (\$1) for each fifty dollars (\$50) or fraction thereof of the principal amount of the loan. This charge shall be permitted only on the first two thousand dollars (\$2,000) of the principal amount of the loan. No charge shall be collected unless a loan has been made as a result of the investigation; **and**
- (5) **An alternative to the default charge described in KRS 288.530(4), not to exceed five percent (5%) of each scheduled installment, or ten dollars (\$10), whichever is greater. Only one (1) charge may be collected for each scheduled installment.**

Section 5. KRS 288.590 is amended to read as follows:

Each licensee shall annually on or before **January 30** ~~April 15~~, file with the commissioner a report for the preceding calendar year. ~~The~~ **Such** report shall give information with respect to the financial condition of ~~the~~ **such** licensee; balance sheets at the beginning and end of the accounting period; a statement of income and expenses for said period; a reconciliation of surplus or net earnings with the balance sheets; a schedule of assets used and useful in the consumer loan business; an analysis of charges, and types of security on loans of fifteen thousand dollars (\$15,000) or less; an analysis of delinquent accounts; analysis of suits, repossessions and sales of chattels and ~~such~~ other relevant information as the commissioner may reasonably require concerning the business and operations during the preceding calendar year of each licensed place of business conducted in the state. In the event any person or affiliated group of corporations ~~holds~~ **hold** more than one (1) license in the state, ~~he, she,~~ or they may file a composite annual report in lieu of separate reports for each licensed office. ~~The~~ **Such** report shall be made under oath in the form prescribed by the commissioner, who shall make and publish annually an analysis and recapitulation of ~~the~~ **such** reports.

Section 6. KRS 288.991 is amended to read as follows:

- (1) Any person who shall engage in the business regulated by this chapter without first securing a license therefor shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars (\$500) nor more than ~~five~~ **one** thousand dollars ~~(\$5,000)~~ **(\$1,000)**. Any ~~such~~ loan contract made in violation of this chapter shall be void and the lender shall have no right to collect any principal, charges or recompense whatsoever.
- (2) **Any person** ~~licensee~~ **who willfully violates any rule or order of the commissioner authorized under this chapter, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.** ~~after a cease and desist order shall have been issued by the commissioner, shall violate any provision of this chapter shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) in addition to the penalty prescribed in KRS 288.530, if applicable, provided, however,~~ This section shall not be deemed to limit the power of the commissioner to revoke any license as provided in KRS 288.490.

Section 7. KRS 290.055 is amended to read as follows:

- (1) A credit union may change its principal place of business within this state upon written authorization by the commissioner. If the commissioner has not notified a credit union of his ~~or her~~ action on an application to change the place of business within fifteen (15) calendar days of the date the application was received by the commissioner, the credit union may proceed with the change in its place of business.
- (2) A credit union may maintain service facilities, including automated ~~teller machines~~ **terminals**, at locations other than its principal office upon written authorization by the commissioner ~~or as permitted by administrative regulation~~. The maintenance of ~~these~~ **such** facilities must be reasonably necessary to furnish service to its members.
- (3) A credit union may join with one (1) or more credit unions in the operation of a service facility to meet member needs, including an automated ~~teller machine~~ **terminal**, upon written authorization by the commissioner ~~or as permitted by administrative regulation~~.

Section 8. KRS 290.525 is amended to read as follows:

- (1) A credit union may make loans to its officers, directors, employees, loan officers, credit manager, and to members of its supervisory and credit committees, provided that:
 - (a) The loan complies with all lawful requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers; and
 - (b) Any loan or aggregate of loans to any ~~such~~ official which exceeds ~~twenty-five~~ **ten** thousand dollars ~~(\$25,000)~~ **(\$10,000)** plus pledged shares ~~shall~~ **must** be approved by the board of directors.
- (2) A credit union may permit officers, directors, employees, loan officers, credit manager, and members of its supervisory and credit committees to act as comakers, guarantors or endorser of loans to other members, except that when any such loan standing alone or when added to any outstanding loan or loans to the comaker, guarantor or endorser exceeds ten thousand dollars (\$10,000), approval of the board of directors is required.

Section 9. KRS 290.585 is amended to read as follows:

Funds not used in loans to members may be invested:

- (1) In securities, obligations, or other instruments of or issued by or fully guaranteed as to principal and interest by the United States of America or any agency thereof or in any trust or trusts established for investing directly or collectively in the same;
- (2) In obligations of any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the several territories organized by Congress, or any political subdivision thereof;
- (3) In certificates of deposit or passbook-type accounts issued by a state or national bank, mutual savings bank, or savings and loan association;
- (4)
 - (a) In loans, not to exceed twenty-five percent (25%) of capital at the lending credit union, to; or
 - (b) In shares or deposits, not to exceed ~~twenty~~^{ten} percent ~~(20%)~~^(10%) of the capital of the investing credit union, of other credit unions, central credit unions, corporate credit unions, or a central liquidity facility established under state or federal law;
- (5) In shares, stocks, loans or other obligations of any organization, corporation, or association, provided the membership or ownership, as the case may be, of ~~the~~^{such} organization, corporation, or association is primarily confined or restricted to credit unions, or organizations of credit unions, and provided further the purpose for which it is organized is to strengthen or advance the development of credit unions or credit union organizations;
- (6) In shares of a cooperative society organized under the laws of this state or of the laws of the United States in the total amount not exceeding ten percent (10%) of the shares, deposits, and surplus of the credit union;
- (7) In stocks and bonds of corporations organized in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the several territories organized by Congress to an aggregate maximum of five percent (5%) of members' shares in stocks and an aggregate maximum of five percent (5%) of members' shares in bonds, provided that ~~such~~ investments shall be limited to stocks or bonds which appear on a list approved by the commissioner and published quarterly or annually, ~~the~~^{such} list to include not less than thirty (30) corporations.

Section 10. KRS 291.460 is amended to read as follows:

An industrial loan company organized under KRS 291.420 to 291.600 may:

- (1) Lend money and receive interest therefor at a rate of seven dollars (\$7) per one hundred dollars (\$100) per annum of the principal amount of the loan not exceeding seven thousand five hundred dollars (\$7,500) and require and receive uniform weekly or monthly installment payments. The amount of interest computed as provided in KRS 291.420 to 291.600 may be charged or received in advance or may be added to the principal amount of the loan. ~~The~~^{Such} loans shall be repayable in substantially equal installments over a period not exceeding five (5) years and thirty-two (32) days, and the principal amount of the loan, (excluding charges) shall not exceed seven thousand five hundred dollars (\$7,500).
- (2) Sell or negotiate bonds, notes and certificates of investment for the payment of money at any time, either fixed or uncertain, and receive payments therefor in installments or otherwise; provided, that nothing herein contained shall be construed to create any liability on demand. No certificate holder making loans under KRS 291.420 to 291.600 shall directly or indirectly advertise for or accept deposits, demand or otherwise, except an industrial loan company organized under KRS 291.420 to 291.600 may advertise the sale of certificates of investment as authorized under KRS 291.420 to 291.600. Certificates of investment and any advertisement for the sale of certificates of investment shall clearly state in bold type on the certificate or in the advertisement that: "THIS CERTIFICATE OF INVESTMENT IS NOT INSURED BY ANY STATE OR FEDERAL GOVERNMENT AGENCY."
- (3) Charge for a loan made ~~in accordance with~~^{pursuant to} this section one dollar (\$1) for each fifty dollars (\$50) or fraction thereof loaned for expenses, including any examination or investigation of the character and circumstances of the borrower, comaker or surety, and the drawing and taking acknowledgment of necessary papers or other expenses incurred in making the loan. ~~This~~^{Such} charge shall be permitted only on the first two thousand dollars (\$2,000) loaned. No charge shall be collected unless a loan has been made as a result of ~~an~~^{such} examination or investigation.
- (4) An industrial loan company organized under KRS 291.420 to 291.600 in addition to its powers heretofore granted shall be authorized to charge interest on loans or extensions of credit in the same manner and at the same rate as is permitted by KRS 287.215 for banks or trust companies or combined banks and trust companies, and provided further that the principal amount of ~~the~~^{such} loan or extension of credit exclusive of interest or other charges shall not exceed ten thousand dollars (\$10,000).
- (5) In addition to the powers granted in this section, an industrial loan company organized under this chapter may offer revolving credit plans in ~~a~~^{such} manner and amount and at the same rate as permitted by KRS 287.710 to 287.770 for banks and trust companies or combined banks and trust companies. **This revolving credit plan may be accessed by a credit card, check, or other device as the plan provides.** All revolving credit plans offered by industrial loan companies under this section shall be secured by either a first or second mortgage on residential property.

In connection with the revolving credit plans, an industrial loan company may charge and collect from a borrower:

- (a) A bad check charge of fifteen dollars (\$15) for the return or dishonor of a check or other instrument tendered as payment; and**
- (b) An over-the-limit fee of twenty dollars (\$20) whenever a borrower exceeds the credit limit established under the plan.**

Section 11. KRS 291.530 is amended to read as follows:

- (1) Every corporation organized under the provisions of KRS 291.410 to 291.600 shall report to and be subject to examination, supervision and control by the Department of Financial Institutions.
- (2) KRS 291.410 to 291.600 shall be enforced by the commissioner, who may, after notice to holders of certificates and a hearing, promulgate regulations, referenced to the section or sections which set forth the legislative standards they interpret or apply, for the proper conduct of the business authorized under KRS 291.410 to 291.600.
- (3) On or before January 30 of each year, every industrial loan company shall file with the commissioner a report for the preceding calendar year. The report shall give information with respect to the financial condition of the industrial loan company, and other relevant information as the commissioner may reasonably require.**

Section 12. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

- (1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, except as otherwise provided in this chapter.
 - (a) "Agent" does not include an individual who represents:
 1. An issuer in:
 - a. Effecting a transaction in a security exempted by subsections (1), (2), (3), (10), or (11) of KRS 292.400, or subsections (5), (9), or (12) thereof if no commission or other remuneration is received for the sale of such securities or effecting a transaction in a security exempted by KRS 292.400(15) even if commission or other remuneration is received for the sale of such security provided that the individual offers or sells no other security except securities exempted by KRS 292.400(15);
 - b. Effecting transactions exempted by KRS 292.410 unless otherwise required;
 - c. Effecting transactions in a covered security under Section 18(b)(3) or 18(b)(4)(d) of the Securities Act of 1933 if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in Kentucky;
 - d. Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or
 - e. Effecting other transactions if the individual primarily performs, or is intended primarily to perform upon completion of an offering of the issuer's own securities, substantial duties for or on behalf of the issuer otherwise than in connection with transactions in the issuer's own securities and the individual's compensation is not based, in whole or in part, upon the amount of purchases or sales of the issuer's own securities effected for the issuer; or
 2. A broker-dealer in effecting transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.
 - (b) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an "agent" only if he otherwise comes within the definition in this subsection;
- (2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:
 - (a) An agent, issuer, bank, savings institution, or trust company;
 - (b) A person that effects transactions in this state exclusively in securities exempted by KRS 292.400(15); or
 - (c) A person who has no place of business in this state:
 1. If he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or
 2. If during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in this paragraph;
- (3) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;
- (4) "Commissioner" means the commissioner of the Department of Financial Institutions or any individual employee of the Department of Financial Institutions expressly designated by order of the commissioner to act in the commissioner's place;

- (5) "Covered advisor" means any person who is registered under Section 203 of the Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-3;
- (6) "Covered security" means any security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder;
- (7) "Department" means the Department of Financial Institutions of the Commonwealth of Kentucky;
- (8) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;
- (9) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;
- (10) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:
 - (a) A bank, savings institution, or trust company;
 - (b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;
 - (c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;
 - (d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;
 - (e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);
 - (f) A person who has no place of business in this state if:
 - 1. His only clients in this state are other investment advisers, covered advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or
 - 2. During any period of twelve (12) consecutive months he does not have more than five (5) clients other than those specified in subparagraph 1;
 - (g) An investment adviser representative or a person excluded from the definition of investment adviser representative;
 - (h) A person who is excluded from the definition of investment adviser under Section 202(a)(11) of the Investment Advisers Act of 1940;
 - (i) A covered adviser; or
 - (j) Such other persons not within the intent of this subsection as the commissioner may by rule or order designate;
- (11) "Investment adviser representative" means:
 - (a) With respect to any investment adviser registered or required to be registered under this chapter, any partner, officer, director of, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who:
 - 1. Makes any recommendations or otherwise renders advice regarding securities;
 - 2. Manages accounts or portfolios of clients;
 - 3. Determines which recommendation or advice regarding securities should be given;
 - 4. Solicits, offers, or negotiates for the sale of or sells investment advisory services; or
 - 5. Supervises employees who perform any of the functions described in this paragraph; and
 - (b) With respect to any covered adviser, any person defined as an investment adviser representative who has a place of business located in Kentucky, as those terms are defined in Rule 203A-3 promulgated in accordance to the Investment Advisers Act of 1940~~[of the Securities Exchange Act of 1934]~~.
- (12) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;
- (13) "Nonissuer" means not directly or indirectly for the benefit of the issuer;
- (14) "Person" means an individual, a limited liability company, a corporation, a partnership, a registered limited liability

partnership, a limited partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

- (15) "Rule" or "regulation" means either or both administrative rules or administrative regulations promulgated by any governmental or other regulatory or self-regulatory entity, as the context requires;
- (16) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;
- (17) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;
- (18) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;
- (19) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico; and
- (20) Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 13. KRS 292.320 is amended to read as follows:

- (1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:
 - (a) To employ any device, scheme, or artifice to defraud;
 - (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
 - (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.
- (2) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:
 - (a) To employ any device, scheme, or artifice to defraud the other person; or
 - (b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.
- (3) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:
 - (a) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;
 - (b) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and
 - (c) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.
- (4) Paragraph (a) of subsection (3) of this section does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment", as used in paragraph (b) of subsection (3) of this section includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one (1) or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.
- (5) **Subsection (3) (a) of this section shall not apply to a contract with any person or class of persons that the commissioner**

by rule or regulation or by order upon application determines does not need the protections of subsection (3)(a) of this section. The commissioner may grant a conditional or unconditional exemption based on factors which include the person's or persons' financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, or other factors as the commissioner determines are consistent with this section.

Section 14. KRS 292.330 is amended to read as follows:

- (1) It is unlawful for any person to transact business in this state as a broker-dealer or agent, unless he is registered under this chapter. It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. It is unlawful for any investment adviser that is required to be registered under this chapter to employ an investment adviser representative unless the investment adviser representative is registered under this chapter. It is unlawful for any person to transact business in this state as an investment adviser unless:
 - (a) He is so registered under this chapter; or
 - (b) He is registered as a broker-dealer under this chapter.
- (2) It is unlawful for any covered adviser to transact business in this state unless:
 - (a) The person has made a notice filing with the commissioner consisting of a copy of those documents that have been filed by the covered adviser with the United States Securities and Exchange Commission and that the commissioner by rule or order requires to be filed together with consent to service of process and the fee prescribed in subsection (11)(b) of this section;
 - (b) The person is registered as a broker-dealer under this chapter;
 - (c) The person's only clients are investment companies as defined in the Investment Company Act of 1940, or insurance companies; or
 - (d) The person is excluded from the definition of investment adviser under KRS 292.310(10)(a) to (h) and (j).It is unlawful for an investment adviser representative to be employed by a covered adviser who is required to make a notice filing with the commissioner unless the investment adviser representative is registered under this chapter.
- (3) A broker-dealer, agent, investment adviser, or investment adviser representative may apply for registration by filing with the commissioner or the commissioner's designee an application together with a consent to service of process pursuant to KRS 292.430 and payment of the fee prescribed in subsection (11).
 - (a) Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer, or director, or a person occupying a similar status or performing similar functions (except any partner, officer, or director or other such person whose registration as an agent is denied, suspended, or revoked under subsection (13)) without the filing of applications for registration as agents or the payment of fees for registration as agents.
 - (b) Except for any partner, officer, director, or other person whose registration as an investment adviser representative is denied, suspended, or revoked under subsection (13) of this section, registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, officer, director, or a person occupying a similar status or performing similar functions, without the filing of applications for registration as investment adviser representatives or the payment of fees for registration, as investment adviser representatives.
 - (c) The registration application shall contain whatever information the commissioner requires concerning such matters as:
 1. The applicant's form and place of organization;
 2. The applicant's proposed method of doing business;
 3. The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser; and in the case of an investment adviser, the qualifications and business history of an employee;
 4. Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and
 5. The applicant's financial condition and history.
- (4) If no denial order is in effect and no proceeding is pending under subsection (13), registration becomes effective at noon of the thirtieth day after an application is filed, except as otherwise noted in this subsection:
 - (a) The commissioner may specify an earlier effective date and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment.
 - (b) The commissioner may by rule establish a procedure for transfer of an agent or an investment adviser representative whereby registration may become effective prior to the filing of an application; but any registration so transferred shall not be effective for more than thirty (30) days, unless within that thirty (30) days a properly

completed application is filed.

- (c) The thirtieth day effective day is tolled if, before 5 p.m. EST of the thirtieth day, the commissioner notifies the applicant that the application is incomplete or that he intends to deny the application, pending the completion of the application or a hearing and final order on the intent to deny the application or the waiver of a hearing through the failure to request a hearing with fifteen (15) days of receiving notice of the intent to deny the application, as applicable.
- (5) The commissioner may require as a condition of registration that the applicant (and, in the case of a corporation or partnership, the officers, directors, or partners) pass a written examination as evidence of knowledge of the securities business.
- (6) Subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940, the commissioner may by rule require the existence and maintenance of a minimum liquid net capital for registered broker-dealers and investment advisers and a minimum ratio between net capital and aggregate indebtedness, or both.
- (7) Subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940, the commissioner may by rule require registered broker-dealers, agents, and investment advisers to post surety bonds in an amount up to \$25,000, and may determine their conditions, except under this subsection that no such bond may be required of any registrant whose net capital exceeds \$100,000. An appropriate deposit of cash or securities shall be accepted in lieu of any required surety bond. Every surety bond shall provide for suit thereon by any person who has a cause of action under KRS 292.480, and every such bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within three (3) years after the later of the sale or other act upon which it is based or the discovery of the sale or act.
- (8) Subject to the limitations of Section 15 of the Securities Exchange Act of 1934, the commissioner may by rule require registered broker-dealers to carry fidelity bonds, covering its agents, general partners, and officers, in such form, covering such risks, and in such amounts (not exceeding \$250,000) as he deems necessary for the protection of the public; and he may by rule require registered broker-dealers to furnish satisfactory evidence that they have such bonds.
- (9) Every registration of a broker-dealer, agent, investment adviser, and investment adviser representative and every notice filing shall be effective until December 31 of the year of registration or notice unless the commissioner by rule extends or lessens the registration or notice period may be renewed as hereinafter provided. The commissioner may by rule increase or reduce the registration fee or notice filing fee set forth in subsection (11) of this section should the registration period or notice period be extended or lessened.
 - (a) The registration of an agent is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application or a notice filed with the commissioner or the commissioner's designee. When an agent begins or terminates a connection with an issuer or registered broker-dealer, the agent and the issuer or broker-dealer shall promptly notify the commissioner or the commissioner's designee.
 - (b) The registration of an investment adviser representative is not effective during any period when he is not associated with an investment adviser specified in his application or with a covered adviser specified in a notice filed with the commissioner or the commissioner's designee. When an investment adviser representative begins or terminates a connection with an investment adviser, the investment adviser representative and the investment adviser shall promptly notify the commissioner or the commissioner's designee. When an investment adviser representative begins or terminates a connection with a covered adviser, the investment adviser representative shall notify the commissioner or the commissioner's designee.
- (10) Registration of a broker-dealer, agent, investment adviser, or investment adviser representative may be renewed by filing with the commissioner or the commissioner's designee prior to the expiration thereof an application containing the information the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, agent, investment adviser, or investment adviser representative filed with the commissioner or the commissioner's designee by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) days. A notice filing by a covered adviser may be renewed by filing with the commissioner or the commissioner's designee a notice filing consisting of any documents filed with the United States Securities and Exchange Commission as the commissioner may require by rule or order. A registered broker-dealer or investment adviser may file an application for registration of a successor and a covered adviser may file a notice filing for a successor, whether or not the successor is then in existence, for the unexpired portion of the year without payment of any fee.
- (11)
 - (a) The fee for initial or renewal registration shall be one hundred twenty dollars (\$120) for a broker-dealer, one hundred dollars (\$100) for an investment adviser, fifty dollars (\$50) for an agent, fifty dollars (\$50) for an investment adviser representative, and fifty dollars (\$50) for transfer of an agent or investment adviser representative, none of which fees shall be refundable.
 - (b) The fee for notice filings shall be ~~one~~^{two} hundred dollars ~~(\$100)~~^(\$200) for a covered adviser.

- (12) (a) Every registered broker-dealer, *firm employing issuer agents*, and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner by rule prescribes. All records required shall be preserved for three (3) years unless the commissioner by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the commissioner, be made available at any time for examination by him either in the principal office of the registrant or by production of exact copies thereof in this state. If a broker-dealer is registered with the United States Securities and Exchange Commission, the books and records required by this section are limited to those that the Securities Act of 1934 requires the broker-dealer to maintain. If an investment adviser has his principal place of business in another state, the requirements of this section shall be limited to those books and records requirements of that state, provided the adviser is registered in that state and in compliance with its recordkeeping requirements.
- (b) Every registered broker-dealer and investment adviser shall file such reports as the commissioner by rule prescribes. If a broker-dealer is registered with the United States Securities and Exchange Commission, the reports required by this section are limited to those required under the Securities Act of 1934. If an investment adviser has his principal place of business in another state, the requirements of this section shall be limited to the reporting requirements of that state, provided the adviser is registered in that state and in compliance with its reporting requirements.
- (c) If the information contained in any document filed with the commissioner or the commissioner's designee is or becomes inaccurate or incomplete in any material respect, the broker-dealer or investment adviser, as applicable, shall promptly file a correcting amendment. In the case of a covered adviser, the adviser shall file only copies of those documents required to be filed with the Securities and Exchange Commission.
- (d) The commissioner may make periodic examinations, within or without this state, of each broker-dealer, *firm employing issuer agents*, and investment adviser at such times and in such scope as he determines. These examinations may be made without prior notice to the broker-dealer, *firm employing issuer agents*, or investment adviser. The expense reasonably attributable to any such examination shall be paid by the broker-dealer, *firm employing issuer agents*, or investment adviser whose business is examined but the expense so payable shall not exceed an amount which the commissioner by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the commissioner, insofar as he deems it practicable in administering this subsection, may cooperate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.
- (e) The commissioner may by rule prohibit unreasonable charges, profits, commissions, or other compensation of broker-dealers and investment advisers.
- (f) The commissioner may prescribe rules for the conduct of business by broker-dealers and investment advisers which he finds appropriate in the public interest and for the protection of investors.
- (g) The commissioner may enter into an arrangement, agreement, or other working relationship with federal, other state, and self-regulatory authorities whereby documents may be filed and maintained in a central depository system with the National Association of Securities Dealers or other agencies or authorities. It is the intent of this paragraph that the commissioner be provided power to reduce duplication of filings, reduce administrative costs, and establish uniform procedures, forms, and administration with the states and federal authorities. The commissioner may permit initial and renewal registration filings required under this chapter to be filed with the Securities and Exchange Commission, the National Association of Securities Dealers, or other similar authorities. The commissioner may accept uniform securities examinations or other procedures designed to implement a uniform national securities regulatory system or facilitate common practices and procedures among the states.
- (13) (a) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer, agent, investment adviser, or investment adviser representative, or bar or censure any registrant or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant, from employment with a registered broker-dealer or investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in the Commonwealth of Kentucky, if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:
1. Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;
 2. Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor law or any rule or order under this chapter or a predecessor law;
 3. Has been convicted, within the past ten (10) years, of any misdemeanor involving a security or any aspect

- of the securities business, or any felony, or has pending against him any such criminal charge;
4. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;
 5. Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative;
 6. Is the subject of any of the following orders that are currently effective and were issued within the last five (5) years:
 - a. An order by the securities agency or administrator of another state or Canadian province or territory, or by the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, limiting or revoking the person's license as a broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms;
 - b. An order of a self-regulatory organization finding a violation of federal law or a rule of the self-regulatory organization;
 - c. A United States Postal Service fraud order;
 - d. A cease and desist or other administrative order entered after notice and opportunity for hearing by the commissioner, the securities agency or administrator of another state, or a Canadian province or territory, the Securities and Exchange Commission, or the Commodity Futures Trading Commission; or
 - e. An order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act;
 7. Has engaged in dishonest or unethical practices in the securities business;
 8. Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;
 9. Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as provided in paragraph (b) below; or the commissioner may by order, deny, suspend, or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant:
 - a. Has failed reasonably to supervise his agents if he is a broker-dealer or his employees or investment adviser representatives if he is an investment adviser; or
 - b. Has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected.
 10. Has violated the law of a foreign jurisdiction governing or regulating any aspect of the business of securities or banking; or within the past five (5) years, has been the subject of an action of a securities regulator or a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of the securities regulator of a state, federal, or foreign jurisdiction suspending or expelling the person from membership in the exchange or self-regulatory organization.

The commissioner may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next thirty (30) days; or

- (b) The following provisions govern the application of subparagraph 9. of paragraph (a) of this subsection:
1. The commissioner may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than the broker-dealer himself if he is an individual or an agent of the broker-dealer;
 2. The commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than the investment adviser himself if he is an individual or any other person who represents the investment adviser in doing any of the acts which make him an investment adviser;
 3. The commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;
 4. The commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer;
 5. The commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration

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as a broker-dealer is not qualified as an investment adviser or an investment adviser representative, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser or an investment adviser representative;

6. The commissioner may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as investment adviser representatives and persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser.
- (c) The commissioner may by order summarily postpone an application for registration or suspend a registration pending final determination of any proceeding under this section. A summary suspension of an existing registration shall only be made based upon a finding by the commissioner that such action is in the public interest and that there is substantial evidence of a violation of law that constitutes an immediate danger to the public. KRS 13B.125 shall apply to the entry of a summary suspension of a registration. An appeal of a summary suspension shall address only the necessity of a summary action and shall not constitute an appeal of the merits of the underlying violation of the law. Upon the entry of the order, the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.
- (d) If the commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser, or investment adviser representative, or is subject to an adjudication of mental disability or to the control of a conservator or guardian, or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.
- (e) Withdrawal from registration as a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under subparagraph 2. of paragraph (a) of this subsection within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective. A notice filing may be withdrawn or terminated by providing notice of the withdrawal or termination, as the case may be, to the commissioner; the withdrawal or termination is effective upon receipt by the commissioner of the notice.
- (f) No order may be entered under any part of this section except the first sentence of paragraph (c) of this subsection without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent or representative), opportunity for hearing, and written findings of fact and conclusions of law.
- (14) Notwithstanding subsection (1) of this section, any broker-dealer, agent, investment adviser or investment adviser representative, or transaction or class of transactions by such persons, for which the commissioner expressly by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors shall be exempt from registration under this section. The commissioner may require that persons exempted from registration under this provision file such forms and information for notice purposes and be bound by one (1) or several provisions of this section as the commissioner deems necessary and appropriate in the public interest or for the protection of investors and the commissioner may impose filing fees in connection therewith, provided however, that the amount of the fee shall not exceed the fee which would be due in the event the exempt person were required to obtain registration.

Section 15. KRS 292.470 is amended to read as follows:

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order under this chapter, he may in his discretion bring any or all of the following remedies:

- (1) Issue a cease and desist order, with or without a prior hearing, appealable to Franklin Circuit Court, against the person or persons engaged in the prohibited activities directing that person or persons to cease and desist from illegal activity. In order to issue an order without a prior hearing, the commissioner must find that the delay in issuing a final cease and desist order will cause harm to the public;
- (2) An action in the Franklin Circuit Court or any other court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing a permanent or

temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. Upon a proper showing by the commissioner, the court may enter an order of rescission, restitution, or disgorgement directed to any person who has engaged in any act constituting a violation of this chapter or any rule or order under this chapter. The commissioner may not be required to post a bond; or

- (3) Issue a final order, after notice and an opportunity for a hearing, containing findings of fact and conclusions of law, directing any person or persons found to have engaged in, or about to be engaged in, activity that constitutes a violation of this chapter or any rule or order under this chapter:
 - (a) To cease and desist from the activity;
 - (b) To perform any other reasonable mandates directed by the commissioner pursuant to an appropriate remedy fashioned by the commissioner and reasonably calculated to carry out the provisions of this chapter; or
 - (c) To pay fines assessed under KRS 292.500(14) and costs assessed under KRS 292.500(15).

Section 16. KRS 291.990 is amended to read as follows:

~~[(1) Any person who violates subsection (3) of KRS 291.020 shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).~~

~~(2) Any corporation or person which willfully violates any provision of KRS 291.410 to 291.600 is guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).~~

Section 17. KRS 287.720 is amended to read as follows:

- (1) A revolving credit plan, and all extensions of credit thereunder, may take such form and contain such provisions, not inconsistent with KRS 287.710 to 287.770 or otherwise prohibited by law, as the bank may from time to time establish and the debtor may accept, and each extension of credit made by the bank pursuant to such plan, evidenced in any manner provided in such plan, shall be evidence of a loan, which may be prepaid by the debtor under agreed conditions in whole or in part at any time, made by the bank to the debtor in the amount advanced by the bank.
- (2) Before opening any account under a revolving credit plan, the bank shall deliver or mail to the debtor a statement of the provisions of the plan containing, to the extent applicable, such information as may be required to be disclosed pursuant to ~~[KRS 360.210 to 360.265 and]~~ Title I of the Federal Consumer Credit Protection Act of 1968 (Public Law 90-321) and any amendments, additions or replacements thereto in effect after June 16, 1972, and containing a statement that the debtor may pay the unpaid balance of his account in whole or in part at any time. If two or more persons, all of whom have the same residence are authorized to obtain extensions of credit under the plan, the statement of provisions of the plan shall be delivered or mailed to one (1) of such persons as may be designated in the plan, and the billing statements required by KRS 287.730 shall be rendered to such person.
- (3) A statement of the provisions of a revolving credit plan in effect prior to June 16, 1972, delivered or mailed to a debtor prior to such effective date shall constitute, and be deemed to be, compliance with the provisions of subsection (2) of this section, if such revolving credit plan complies with the provisions of KRS 287.710 to 287.770 and such statement disclosed the information required by said subsection (2).

Section 18. KRS 287.730 is amended to read as follows:

- (1) For each billing cycle at the end of which there is an outstanding balance in the debtor's account or with respect to which a charge permitted by KRS 287.710 to 287.770 is imposed, the bank shall render a statement to the debtor containing, to the extent applicable, such information as may be required to be included therein pursuant to ~~[KRS 360.210 to 360.265 and]~~ Title I of the Federal Consumer Credit Protection Act of 1968 (Public Law 90-321) and any amendments, additions or replacements thereto in effect after June 16, 1972, and a legend to the effect that the debtor may at any time pay the aggregate balance owing by him or any part thereof.
- (2) In the event of an extension of credit by a bank hereunder that is affected by the use of a credit card for the purchase of goods or services and that results in payment by the bank directly to a third party, the finance charge as authorized by KRS 287.740 shall not be imposed upon the debtor on such extension if payment in full of the entire outstanding unpaid balances owing on the debtor's account is received at the place designated by the bank by the date of the statement for the next billing cycle.

Section 19. The following KRS sections are repealed:

- 291.010 Definitions for KRS 291.020 to 291.110.
- 291.012 Administrative hearing request.
- 291.020 Deposit, statement and license required.
- 291.030 Issuance of license -- Renewal -- Fee.
- 291.040 Annual statement of business.
- 291.050 Reserve fund.
- 291.060 Use of interest on securities deposited -- Exchange of.

- 291.070 Amount of loans -- Security.
- 291.080 Investment of capital and reserve.
- 291.090 Examination -- Effect of deficient assets.
- 291.100 Requirements for foreign companies -- License.
- 291.110 Deposits of foreign companies -- Retaliatory laws.
- 291.115 Liability of stockholders.
- 360.210 Policy and purpose of law.
- 360.212 Compliance with KRS 360.210 to 360.265 by compliance with federal law.
- 360.215 Definitions.
- 360.220 Closed-end transactions, information required.
- 360.225 Revolving credit transactions, information required.
- 360.230 Other credit transactions, information required.
- 360.235 Information as to finance charges, how given.
- 360.240 Applicability of law -- Transactions excluded.
- 360.245 Lending institutions regulated by other laws subject to disclosure provisions.
- 360.250 Rules and regulations, scope.
- 360.255 False advertising or representations as to credit transactions prohibited.
- 360.260 Regulations governing information as to how credit charges determined, powers of commissioner.
- 360.265 Willful failure to give information bars collection of financing charge.
- 360.991 Penalties.

The Committee Amendment No. 1 to **HB 621** is as follows:

On page 4, line 2 after "(1)" and before "may" by deleting "change" and inserting in lieu thereof "charge".

HB 634, AN ACT relating to investments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle:

(1) "Acceptable collateral" means:

(a) As to securities lending transactions, and for the purpose of calculating counterparty exposure amount, cash, cash equivalents, letter of credit, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States, any agency of the United States, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, and as to lending foreign securities, sovereign debt rated 1 by the SVO;

(b) As to repurchase transactions, cash, cash equivalents, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States, any agency of the United States, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(c) As to reverse repurchase transactions, cash and cash equivalents.

(2) "Acceptable private mortgage insurance" means insurance written by a private insurer protecting a mortgage lender against loss occasioned by a mortgage loan default and issued by a licensed mortgage insurance company, with an SVO 1 designation or a rating issued by a nationally recognized statistical rating organization equivalent to an SVO 1 designation, that covers losses to an eighty percent (80%) loan-to-value ratio.

(3) "Accident and health insurance" means protection that provides payment of benefits for covered sickness or accidental injury, excluding credit insurance, disability insurance, accidental death and dismemberment insurance, and long-term care insurance.

(4) "Accident and health insurer" means a licensed life or health insurer or health service corporation whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively.

(5) "Admitted assets" means assets permitted to be reported as admitted assets in accordance with Subtitle 6 of KRS Chapter 304 on the statutory financial statement of the insurer most recently required to be filed with the

commissioner, but excluding assets of separate accounts.

- (6) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.
- (7) "Asset-backed security" means a security or other instrument, excluding a mutual fund, evidencing an interest in, or the right to receive payments from, or payable from distributions on, an asset, a pool of assets, or specifically divisible cash flows that are legally transferred to a trust or another special purpose bankruptcy-remote business entity, on the following conditions:
 - (a) The trust or other business entity is established solely for the purpose of acquiring specific types of assets or rights to cash flows, issuing securities and other instruments representing an interest in or right to receive cash flows from those assets or rights, and engaging in activities required to service the assets or rights and any credit enhancement or support features held by the trust, or other business entity; and
 - (b) The assets of the trust or other business entity consist solely of interest bearing obligations or other contractual obligations representing the right to receive payment from the cash flows from the assets or rights. However, the existence of credit enhancement, such as letters of credit or guarantees, or support features such as swap agreements, shall not cause a security or other instrument to be ineligible as an asset-backed security.
- (8) "Business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy, or other similar form of business organization, whether organized for profit or not-for-profit.
- (9) "Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price, level, or the performance or value of one (1) or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.
- (10) "Capital and surplus" means the sum of the capital and surplus of the insurer required to be shown on the statutory financial statement of the insurer most recently required to be filed with the commissioner.
- (11) "Cash equivalents" means short-term, highly rated, and highly liquid investments or securities readily convertible to known amounts of cash without penalty and so near maturity that they present insignificant risk of change in value. Cash equivalents include government money market mutual funds and class one money market mutual funds. For purposes of this definition:
 - (a) "Short-term" means investments with a remaining term to maturity of ninety (90) days or less; and
 - (b) "Highly rated" means an investment rated P-1 by Moody's Investors Service, Inc., or A-1 by Standard and Poor's division of The McGraw-Hill Companies, Inc. or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.
- (12) "Class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purposes and Procedures of the Securities Valuation Office, or any successor publication.
- (13) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purposes and Procedures of the Securities Valuation Office, or any successor publication.
- (14) "Code" means KRS Chapter 304 and all administrative regulations promulgated as authorized.
- (15) "Collar" means an agreement to receive payments as the buyer of an option, cap, or floor and to make payment as the seller of a different option, cap, or floor.
- (16) "Commercial mortgage loan" means a loan secured by a mortgage, other than a residential mortgage loan.
- (17) "Construction loan" means a loan of less than three (3) years in term, made for financing the cost of construction of a building or other improvement to real estate, that is secured by the real estate.
- (18) "Control" means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.
- (19) "Counterparty exposure amount" means:
 - (a) The net amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange, qualified foreign exchange, or cleared through a qualified clearinghouse ("over-the-counter derivative instrument"). The amount of credit risk equals:

1. The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer; or
 2. Zero (0) if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.
- (b) If over-the-counter derivative instruments are entered into under a written master agreement that provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counterparty is either within the United States or if not within the United States, within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting, the net amount of credit risk shall be the greater of zero (0) or the net sum of:
1. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer; and
 2. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.
- (c) For open transactions, market value shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one (1) or both parties.
- (20) "Covered" means that an insurer owns or can immediately acquire, through the exercise of options, warrants, or conversion rights already owned, the underlying interest in order to fulfill or secure its obligations under a call option, cap, or floor it has written, or has set aside under a custodial or escrow agreement, cash, or cash equivalents with a market value equal to the amount required to fulfill its obligations under a put option it has written, in an income generation transaction.
- (21) "Credit tenant loan" means a mortgage loan that is made primarily in reliance on the credit standing of a major tenant, structured with an assignment of the rental payments to the lender with real estate pledged as collateral in the form of a first lien.
- (22) (a) "Derivative instrument" means an agreement, option, instrument, a series, or combination thereof:
1. To make or take delivery of, or assume or relinquish, a specified amount of one (1) or more underlying interests, or to make a cash settlement in lieu thereof; or
 2. That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one (1) or more underlying interests.
- (b) Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, any other agreements, options, or instruments substantially similar thereto, or any series or combination thereof, and any agreements, options, or instruments permitted under administrative regulations promulgated under Section 6 of this Act. Derivative instruments shall not include an investment authorized by Sections 9 to 15, 17, and 23 to 28 of this Act.
- (23) "Derivative transaction" means a transaction involving the use of one (1) or more derivative instruments.
- (24) "Direct" or "directly", when used in connection with an obligation, means that the designated obligor is primarily liable on the instrument representing the obligation.
- (25) "Dollar roll transaction" means two (2) simultaneous transactions with different settlement dates no more than ninety-six (96) days apart, so that in the transaction with the earlier settlement date, an insurer sells to a business entity, and in the other transaction the insurer is obligated to purchase from the same business entity, substantially similar securities of the following types:
- (a) Asset-backed securities issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or their respective successors; and
 - (b) Other asset-back securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. sec. 77r-1), as amended.
- (26) "Domestic jurisdiction" means the United States, Canada, any state, any province of Canada, or any political subdivision of any of the foregoing.
- (27) "Equity interest" means any of the following that are not rated credit instruments:
- (a) Common stock;
 - (b) Preferred stock;
 - (c) Trust certificate;
 - (d) Equity investment in an investment company other than a money market mutual fund or a class one bond mutual fund;

- (e) Investment in a common trust fund of a bank regulated by a federal or state agency;
 - (f) An ownership interest in mineral, oil, or gas, the rights to which have been separated from the underlying fee interest in the real estate where the mineral, oil, or gas are located;
 - (g) Instruments that are mandatorily, or at the option of the issuer, convertible to equity;
 - (h) Limited partnership interests and those general partnership interests authorized under subsection (4) of Section 4 of this Act;
 - (i) Member interests in limited liability companies;
 - (j) Warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or
 - (k) Instruments that would be rated credit instruments except for the provisions of subsection (70)(b) of this section.
- (28) "Equivalent securities" means:
- (a) In a securities lending transaction, securities that are identical to the loaned securities in all features including the amount of the loaned securities, except as to certificate number if held in physical form, but if any different security shall be exchanged for a loaned security by recapitalization, merger, consolidation, or other corporate action, the different security shall be deemed to be the loaned security;
 - (b) In a repurchase transaction, securities that are identical to the purchased securities in all features including the amount of the purchased securities, except as to the certificate number if held in physical form; or
 - (c) In a reverse repurchase transaction, securities that are identical to the sold securities in all features including the amount of the sold securities, except as to the certificate number if held in physical form.
- (29) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of one (1) or more underlying interests.
- (30) "Foreign currency" means a currency other than that of a domestic jurisdiction.
- (31) (a) "Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate, or asset domiciled in a foreign jurisdiction, that is substantially of the same type as those eligible for investment under this subtitle, other than Sections 15 and 28 of this Act. An investment shall not be deemed to be foreign if the issuing person, qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction, unless:
- 1. The issuing person is a shell business entity; and
 - 2. The investment is not assumed, accepted, guaranteed, insured, or otherwise backed by a domestic jurisdiction or a person that is not a shell business entity, domiciled in a domestic jurisdiction.
- (b) For purposes of this definition:
- 1. "Shell business entity" means a business entity having no economic substance, except as a vehicle for owning interests in assets issued, owned, or previously owned by a person domiciled in a foreign jurisdiction;
 - 2. "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction; and
 - 3. "Qualified primary credit source" means the credit source to which an insurer looks for payment as in an investment and against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.
- (32) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.
- (33) "Forward" means an agreement other than a future, to make, take delivery of, or effect a cash settlement based on the actuarial or expected price, level, performance, or value of one (1) or more underlying interests.
- (34) "Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make, take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of one (1) or more underlying interest.
- (35) "Government money market mutual fund" means a money market mutual fund that at all times:
- (a) Invests only in obligations issued, guaranteed, or insured by the federal government of the United States or collateralized repurchase agreements composed of these obligations; and
 - (b) Qualifies for investment without a reserve under the Purposes and Procedures of the Securities Valuation Office or any successor publication.

- (36) "Government sponsored enterprise" means a :
- (a) Governmental agency; or
 - (b) Corporation, limited liability company, association, partnership, joint stock company, joint venture, trust, or other entity or instrumentality organized under the laws of any domestic jurisdiction to accomplish a public policy or other governmental purpose.
- (37) "Guaranteed or insured", when used in connection with an obligation acquired under this subtitle, means that the guarantor or insurer has agreed to:
- (a) Perform or insure the obligation of the obligor or purchase the obligation; or
 - (b) Be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.
- (38) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce:
- (a) The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; or
 - (b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring.
- (39) "High grade investment" means a rated credit instrument rated 1 or 2 by the SVO.
- (40) "Income" means, as to a security, interest, accrual of discount, dividends, or other distributions, such as rights, tax or assessment, or assessment credits, warrants, and distributions in kind.
- (41) "Income generation transaction" means a derivative transaction involving the writing of covered call options, covered up options, covered caps, or covered floors that is intended to generate income or enhance return.
- (42) "Initial margin" means that amount of cash, securities, or other consideration initially required to be deposited to establish a futures position.
- (43) "Insurance future" means a future relating to an index or pool that is based on insurance-related items.
- (44) "Insurance futures option" means an option on an insurance future.
- (45) "Investment company" means an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended, and a person described in Section 3(c) of that Act.
- (46) "Investment company series" means an investment portfolio of an investment company that is organized as a series company and to which assets of the investment company have been specifically allocated.
- (47) "Investment practices" means transactions of the types described in Sections 14, 16, 27, and 29 of this Act.
- (48) "Investment subsidiary" means a subsidiary of an insurer engaged or organized to engage exclusively in the ownership and management of assets authorized as investment for the insurer if each subsidiary agrees to limit its investment in any asset so that its investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations or avoid any other provisions of this subtitle applicable to the insurer. As used in this subsection, the total investment of the insurer shall include:
- (a) Direct investment by the insurer in an asset; and
 - (b) The insurer's proportionate share of an investment in an asset by an investment subsidiary of the insurer, that shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership interest in the subsidiary.
- (49) "Investment strategy" means the techniques and methods used by an insurer to meet its investment objectives, such as active bond portfolio management, passive bond portfolio management, interest rate anticipation, growth investing, and value investing.
- (50) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit issued or confirmed by, and payable and presentable at, a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the Purposes and Procedures of the Securities Valuation Office or any successor publication. To constitute acceptable collateral for the purposes of Sections 14 and 27 of this Act, a letter of credit shall have an expiration date beyond the term of the subject transaction.
- (51) "Limited liability company" means a business organization, excluding partnerships and ordinary business corporations, organized or operating under the laws of the United States or any state thereof that limits the personal liability of investors to the equity investment of the investor in the business entity.
- (52) "Lower grade investment" means a rated credit instrument rated 4, 5, or 6 by the SVO.
- (53) "Market value" means:
- (a) As to cash and letters of credit, the amounts thereof; and

- (b) As to security as of any date, the price for the security on that date obtained from a generally recognized source or the most recent quotation from such a source or, to the extent no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction, plus accrued but unpaid income thereon to the extent not included in the price as of that date.
- (54) "Medium grade investment" means a rated credit instrument rated 3 by the SVO.
- (55) "Money market mutual fund" means a mutual fund that meets the conditions of 17 Code of Federal Regulations sec. 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or renumbered.
- (56) "Mortgage loan" means an obligation secured by a mortgage, deed of trust, trust deed, or other consensual lien on real estate.
- (57) "Multilateral development bank" means an international development organization of which the United States is a member.
- (58) "Mutual fund" means an investment company or, in the case of an investment company that is organized as a series company, an investment company series, that, in either case, is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended.
- (59) "NAIC" means the National Association of Insurance Commissioners.
- (60) "Obligation" means a bond, note, debenture, or a trust certificate including an equipment certificate, production payment, negotiable bank certificate of deposit, bankers' acceptance, credit tenant loan, loan secured by financing net leases, and other evidence of indebtedness for the payment of money or participations, certificates, or other evidences of an interest in any of the foregoing, whether constituting a general obligation of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment.
- (61) "Option" means an agreement giving the buyer the right to buy or receive (a "call option"), sell or deliver (a "put option"), enter into, extend, terminate, or effect a cash settlement based on the actual or expected price level, performance or value of one (1) or more underlying interests.
- (62) "Person" means an individual, a business entity, a multilateral development bank, or a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.
- (63) "Potential exposure" means the amount determined in accordance with the NAIC Annual Statement Instructions.
- (64) "Preferred stock" means preferred, preference, or guaranteed stock of a business entity authorized to issue the stock, that has a preference in liquidation over the common stock of the business entity.
- (65) "Qualified bank" means:
- (a) A national bank, state bank, or trust company that at all times is not less than adequately capitalized as determined by standards adopted by the United States banking regulators and that is either regulated by state banking laws, or is a member of the Federal Reserve Bank of New York; or
- (b) A bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as a bank or trust company by that country's government or an agency thereof and that at all times is no less than adequately capitalized as determined by the standards adopted by international banking authorities.
- (66) "Qualified business entity" means a business entity that is:
- (a) An issuer of obligations or preferred stock that are rated 1 or 2 by SVO or an issuer of obligations, preferred stock, or derivative instruments that are rated the equivalent of 1 or 2 by the SVO or by a nationally recognized statistical rating organization recognized by the SVO; or
- (b) A primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York.
- (67) "Qualified clearinghouse" means a clearinghouse for, and subject to the rules of, a qualified exchange or a qualified foreign exchange, that provides clearing service, including acting as a counterparty to each of the parties to a transaction such that the parties no longer have credit risks as to each other.
- (68) "Qualified exchange" means:
- (a) A securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934 (15 U.S.C. sec. 78a et seq.), as amended;
- (b) A board of trade or commodities exchange designated as a contract market by the Commodity Futures Trading Commission or any successor thereof;
- (c) Private Offerings, Resales, and Trading through Automated Linkages (PORTAL);
- (d) A designated offshore securities market as defined in Securities Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or
- (e) A qualified foreign exchange.
- (69) "Qualified foreign exchange" means a foreign exchange, board of trade, or contract market located outside the United

States, its territories, or possessions:

- (a) That has received regulatory comparability relief under Commodity Futures Trading Commission (CFTC) Rule 30.10, as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30;
 - (b) That is, or its members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under CFTC Rule 30.10, as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30, as to futures transactions in the jurisdiction where the exchange, board of trade, or contract market is located; or
 - (c) Upon which foreign stock index futures contracts are listed that are the subject of no-action relief issued by the CFTC's Office of General Counsel, provided that an exchange, board of trade, or contract market that qualifies as a qualified foreign exchange only under this subsection shall only be a qualified foreign exchange as to foreign stock interest futures contracts that are the subject of no-action relief.
- (70) (a) "Rated credit instrument" means a contractual right to receive cash or another rated credit instrument from another entity that:
- 1. Is rated or required to be rated by the SVO;
 - 2. In the case of an instrument with a maturity of three hundred ninety-seven (397) days or less, is issued, guaranteed, or insured by an entity that is rated by, or another obligation of the entity is rated by, the SVO or by a nationally recognized statistical rating organization recognized by the SVO;
 - 3. In the case of an instrument with a maturity of ninety (90) days or less is issued by a qualified bank;
 - 4. Is a share of a class one bond mutual fund; or
 - 5. Is a share of a money market mutual fund.
- (b) However, "rated credit instrument" does not mean:
- 1. An instrument that is mandatorily, or at the option of the issuer, convertible to an equity interest; or
 - 2. A security that has a par value and whose terms provide that the issuer's net obligation to repay all or part of the security's par value is determined by reference to the performance of an equity, a commodity, a foreign currency, or an index of equities, commodities, foreign currencies, or combinations thereof.
- (71) "Real estate" means:
- (a) 1. Real property;
 - 2. Interests in real property, such as leaseholds, minerals, oil, and gas that have not been separated from the underlying fee interest;
 - 3. Improvements and fixtures located on or in real property; and
 - 4. The seller's equity in a contract providing for a deed of real estate.
 - (b) As to a mortgage on a leasehold estate, real estate shall include the leasehold estate only if it has an unexpired term, including renewal options exercisable at the option of the lessee, extending beyond the scheduled maturity date of the obligation that is secured by a mortgage on the leasehold estate by a period equal to at least twenty percent (20%) of the original term of the obligation or ten (10) years, whichever is greater.
- (72) "Replication transaction" means a derivative transaction that is intended to relocate the performance of one (1) or more assets that an insurer is authorized to acquire under this subtitle. A derivative transaction that is entered into as a hedging transaction shall not be considered a replication transaction.
- (73) "Repurchase transaction" means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the insurer at a specified price, either within a specified period of time or upon demand.
- (74) "Required liabilities" means total liabilities required to be reported on the statutory financial statement of the insurer most recently required to be filed with the commissioner.
- (75) "Residential mortgage loan" means a loan primarily secured by a mortgage on real estate improved with a one (1) to four (4) family residence.
- (76) "Reverse repurchase transaction" means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.
- (77) "Secured location" means the contiguous real estate owned by one (1) person.
- (78) "Securities lending transaction" means a transaction in which securities are loaned by an insurer to a business entity that is obligated to return the loaned securities or equivalent securities to the insurer, either within a specified period of time or upon demand.
- (79) "Series company" means an investment company that is organized as a series company, as defined in Rule 18f-2(a)

adopted under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended.

(80) "Sinking fund stock" means preferred stock that:

- (a) Is subject to a mandatory sinking fund or similar arrangement that will provide for the redemption or open market purchase of the entire issue over a period not longer than forty (40) years from the date of acquisition; and
- (b) Provides for mandatory sinking fund installments or open market purchases commencing not more than ten and one-half (10 1/2) years from the date of issue, with the sinking fund installments providing for the purchase or redemption, on a cumulative basis commencing ten (10) years from the date of issue, of at least two and one-half percent (2.5%) per year of the original number of shares of that issue of preferred stock.

(81) "Special rated credit instrument" means a rated credit instrument that is:

- (a) An instrument that is structured so that, if it is held until retired by or on behalf of the issuer, its rate of return, based on its purchase cost and any cash flow stream possible under the structure of the transaction, may become negative due to reasons other than the credit risk associated with the issuer of the instrument; however, a rated credit instrument shall not be a special rated credit instrument under this subsection if it is:
 - 1. A share in a class one bond mutual fund;
 - 2. An instrument, other than an asset-backed security, with payments of par value fixed as to amount and timing, or callable but in any event payable only at par or greater, and interest or dividend cash flows that are based on either a fixed or variable rate determined by reference to a specified rate or index;
 - 3. An instrument, other than an asset-backed security, that has a par value and is purchased at a price not greater than one hundred ten percent (110%) of par;
 - 4. An instrument, including an asset-backed security, whose rate of return would become negative only as a result of a prepayment due to casualty, condemnation, or economic obsolescence of collateral or change of law;
 - 5. An asset-backed security that relies on collateral that meets the requirements of subparagraph 2. of this paragraph, the par value of which collateral:
 - a. Is not permitted to be paid sooner than one-half (1/2) of the remaining term to maturity from the date of acquisition;
 - b. Is permitted to be paid prior to maturity only at a premium sufficient to provide a yield to maturity for the investment, considering the amount prepaid and reinvestment rates at the time of early repayment, at least equal to the yield to maturity of the initial investment; or
 - c. Is permitted to be paid prior to maturity at a premium at least equal to the yield of a Treasury issue of comparable remaining life; or
 - 6. An asset-backed security that relies on cash flows from assets that are not prepayable at any time at par, but is not otherwise governed by subparagraph 5. of this paragraph, if the asset-backed security has a par value reflecting principal payments to be received if held until retired by or on behalf of the issuer and is purchased at a price no greater than one hundred five percent (105%) of the par amount.
- (b) An asset-backed security that:
 - 1. Relies on cash flows from assets that are prepayable at par at any time;
 - 2. Does not make payments of par that are fixed as to amount and timing; and
 - 3. Has a negative rate of return at the time of acquisition if a prepayment threshold assumption is used with the prepayment threshold assumption defined as either:
 - a. Two (2) times the prepayment expectation reported by a recognized, publicly available source as being the median of expectations contributed by broker dealers or other entities, except insurers, engaged in the business of selling or evaluating the securities or assets. The prepayment expectation used in this calculation shall be, at the insurer's election, the prepayment expectation for pass-through securities of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or for other assets of the same type as the assets that underlie the asset-backed security, in either case with a gross weighted average coupon comparable to the gross weighted average coupon of the assets that underlie the asset-backed security; or
 - b. Another prepayment threshold assumption specified by the commissioner by administrative regulation promulgated under Section 6 of this Act.
- (c) For purposes of paragraph (b) of this subsection, if the asset-backed security is purchased in combination with one (1) or more other asset-backed securities that are supported by identical underlying collateral, the insurer may calculate the rate of return for these specific combined asset-backed securities in combination. The insurer

shall maintain documentation demonstrating that the securities were acquired and are continuing to be held in combination.

- (82) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
- (83) "Substantially similar securities" means securities that meet all criteria for substantially similar securities specified in the NAIC Accounting Practices and Procedures manual, as amended, and in an amount that constitutes good delivery form as determined from time to time by the Public Securities Administration.
- (84) "SVO" means the Securities Valuation Office of the NAIC or any successor office established by the NAIC.
- (85) "Swap" means an agreement to exchange or to net payments at one (1) or more times based on the actual or expected price, level, performance, or value of one (1) or more underlying interests.
- (86) "Underlying interest" means the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one (1) or more securities, currencies, rates, indices, commodities, or derivative instruments.
- (87) "Unrestricted surplus" means the amount by which total admitted assets exceed one hundred twenty-five percent (125%) of the insurer's required liabilities.
- (88) "Warrant" means an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities, for example, as part of a merger, recapitalization agreement, or to facilitate divestiture of the securities of another business entity.

SECTION 2. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Insurers may acquire, hold, or invest investments or engage in investment practices as set forth in this subtitle. Investments not conforming to this subtitle or otherwise expressly allowed in this chapter shall not be admitted assets.
- (2) Subject to subsection (3) of this section, an insurer shall not acquire or hold an investment as an admitted asset unless at the time of acquisition it is:
 - (a) Eligible for the payment or accrual of interest or discount, whether in cash or other securities, eligible to receive dividends or other distributions, or is otherwise income producing; or
 - (b) Acquired under Section 13(3), 14, 16, 18, 26(3), 27, 29, or 30 of this Act, or under the authority of sections of the code other than in this subtitle.
- (3) An insurer may acquire or hold as admitted assets investments that do not otherwise qualify under this subtitle if the insurer has not acquired them for the purpose of circumventing any limitations contained in this subtitle, if the insurer acquires the investments in the following circumstances and the insurer complies with the provisions of Section 4 of this Act as to the investments:
 - (a) As payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the insurer's interest in that investment;
 - (b) As realization on collateral for an obligation;
 - (c) In connection with an otherwise qualified investment or investment practice, as interest on a dividend, other distribution related to the investment, investment practice, or in connection with the refinancing of the investment, in each case for no additional or only nominal consideration;
 - (d) Under a lawful and bona fide agreement of recapitalization, voluntary, or involuntary reorganization in connection with an investment held by the insurer; or
 - (e) Under a bulk reinsurance, merger, or consolidation transaction approved by the commissioner if the assets constitute admissible investments for the ceding, merged, or consolidated companies.
- (4) An investment or portion of an investment acquired by an insurer under subsection (3) of this section shall become a nonadmitted asset three (3) years, or five (5) years in the case of mortgage loans and real estate, from the date of its acquisition, unless within that period the investment has become a qualified investment under this subtitle other than subsection (3) of this section, but an investment acquired under an agreement of bulk reinsurance, merger, or consolidation may be qualified for a longer period if so provided in the plan for reinsurance, merger, or consolidation as approved by the commissioner. Upon application by the insurer and a showing that the nonadmission of an asset held under subsection (3) of this section would materially injure the interests of the insurer, the commissioner may extend the period for admissibility for an additional reasonable period of time.
- (5) Except as provided in subsections (6) and (8) of this section, an investment shall qualify under this subtitle if, on the date the insurer committed to acquire the investment or on the date of its acquisition, it would have qualified under this subtitle. For the purposes of determining limitations contained in this subtitle, an insurer shall give appropriate recognition to any commitments to acquire investments.
- (6) (a) An investment held as an admitted asset by an insurer on the effective date of this Act that qualified under this subtitle shall remain qualified as an admitted asset under this subtitle.

- (b) Each specific transaction constituting an investment practice of the type described in this subtitle that was lawfully entered into by an insurer and was in effect on the effective date of this Act shall continue to be permitted under this subtitle until its expiration or termination under its terms.
- (7) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus shall relate to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed with the commissioner. For purposes of computing any limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on its statutory balance sheet for:
 - (a) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;
 - (b) Cash received in a dollar roll transaction; and
 - (c) The amount reported as borrowed money in the most recently filed financial statement to the extent not included in paragraphs (a) and (b) of this subsection.
- (8) An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or requalified at the time of acquisition or a later date, in whole or in part, under any other section of this subtitle, if the relevant conditions contained in the other section of this subtitle are satisfied at the time of qualification or requalification.
- (9) An insurer shall maintain documentation demonstrating that investments were acquired in accordance with this subtitle, and specifying the section of this subtitle under which they were acquired.
- (10) An insurer shall not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer, or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.
- (11) Notwithstanding the provisions of this subtitle, the commissioner, for good cause, may order under the state's administrative regulations, an insurer to nonadmit, limit, dispose of, withdraw from or discontinue an investment or investment practice. The authority of the commissioner under this subsection is in addition to any other authority of the commissioner.
- (12) Insurance futures and insurance futures options are not considered investments or investment practices for the purposes of this subtitle.

SECTION 3. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity, diversification of investments, and other specifications including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall review and assess the insurer's technical investment and administrative capabilities and expertise before adopting a written plan concerning an investment strategy or investment practice.
- (2) Investments acquired and held under this subtitle shall be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations, and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct its investments.
- (3) On no less than a quarterly basis, and more often if deemed appropriate, an insurer's board of directors or committee of the board of directors shall:
 - (a) Receive and review a summary report on the insurer's investment portfolio, its investment activities, and investment practices engaged in under delegated authority, in order to determine whether the investment activity of the insurer is consistent with its written plan; and
 - (b) Review and revise, as appropriate, the written plan.
- (4) In discharging its duties under this section, the board of directors shall require that records of any authorizations or approvals, other documentation as the board may require, and reports of any action taken under authority delegated under the plan referred to in subsection (1) of this section shall be made available on a regular basis to the board of directors.
- (5) In discharging their duties under this section, the directors of an insurer shall perform their duties in good faith and with that degree of care that ordinarily prudent individuals in like positions would use under similar circumstances.
- (6) If an insurer does not have a board of directors, all references to the board of directors in this subtitle shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.

SECTION 4. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall not, directly or indirectly:

- (1) Invest in an obligation or security or make a guarantee for the benefit of or in favor of an officer or director of the insurer, except as provided in Section 5 of this Act;
- (2) Invest in an obligation or security, make a guarantee for the benefit of or in favor of, or make other investments in a business entity of which ten percent (10%) or more of the voting securities or equity interests are owned directly or indirectly by or for the benefit of one (1) or more officers or directors of the insurer, except as authorized in KRS 304.37-110, or provided in Section 5 of this Act;
- (3) Engage on its own behalf or through one (1) or more affiliates in a transaction or series of transactions designed to evade the prohibitions of this subtitle;
- (4) (a) Invest in a partnership as a general partner, except that an insurer may make an investment as a general partner;
 1. If all other partners in the partnership are subsidiaries of the insurer;
 2. For the purpose of:
 - a. Meeting cash calls committed to prior to the effective date of this Act;
 - b. Completing those specific projects or activities of the partnership in which the insurer was a general partner as of the effective date of this Act that had been undertaken as of that date; or
 - c. Making capital improvements to property owned by the partnership on the effective date of this Act if the insurer was a general partner as of that date; or
 3. In accordance with subsection (3) of Section 2 of this Act;
- (b) This subsection shall not prohibit a subsidiary or other affiliate of the insurer from becoming a general partner; or
- (5) Invest in or lend its funds upon the security of shares of its own stock, except that an insurer may acquire shares of its own stock for the following purposes, but the shares shall not be admitted assets of the insurer;
 - (a) Conversion of a stock insurer into a mutual or reciprocal insurer or a mutual or reciprocal insurer into a stock insurer;
 - (b) Issuance to the insurer's officers, employees, or agents in connection with a plan approved by the commissioner for converting a publicly held insurer into a privately held insurer or in connection with other stock option and employee benefit plans; or
 - (c) In accordance with any other plan approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Except as provided in subsection (2) of this section, an insurer shall not, without the prior written approval of the commissioner, directly or indirectly:
 1. Make a loan to or invest in an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest;
 2. Make a guarantee for the benefit of or in favor of an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest; or
 3. Enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest.
- (b) For purposes of this section, an officer or director shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than two percent (2%) of all outstanding equity interests issued by a person that is a party to the transaction, or solely by reason of that individual's position as a director or officer of a person that is a party to the transaction.
- (c) This subsection does not permit an investment that is prohibited by Section 4 of this Act.
- (d) This subsection does not apply to a transaction between an insurer and any of its subsidiaries or affiliates that is entered into in compliance with Subtitle 37 of KRS Chapter 304, other than a transaction between an insurer and its officer or director.
- (2) An insurer may make, without the prior written approval of the commissioner;
 - (a) Policy loans in accordance with the terms of the policy or contract and Section 17 of this Act;
 - (b) Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or charge cards issued or credit extended for the purpose of financing these expenses;
 - (c) Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans comply with the requirements of Section 13 or 26 of

this Act, and the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

- (d) Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:
1. Do not have a term exceeding two (2) years;
 2. Are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;
 3. Do not exceed an amount equal to the equity of the officer in the prior residence; and
 4. Are required to be fully repaid upon the earlier of the end of the two (2) year period or the sale of the prior residence; and
- (e) Loans and advances to officers or directors made in compliance with state or federal law specifically related to the loans and advances by a regulated noninsurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms no more favorable than available to other customers of the entity.

SECTION 6. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations implementing the provisions of this subtitle.

SECTION 7. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 7 to 18 of this Act shall apply to the investments and investment practices of life and health insurers, of domestic insurers, and of United States branches of alien insurers entered through this state.

SECTION 8. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Except as otherwise specified in this subtitle, an insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under this subtitle if, as a result of and after giving effect to the investment, the insurer would hold more than three percent (3%) of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person.
- (b) This three percent (3%) limitation shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.
- (c) Asset-backed securities shall not be subject to the limitations of paragraph (a) of this subsection, however an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity, then held by the insurer would exceed three percent (3%) of its admitted assets.
- (2) (a) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Sections 9, 12, and 15 of this Act, or counterparty exposure under subsection (4) of Section 16 of this Act, if, as a result of and after giving effect to the investment:
1. The aggregate amount of medium and lower grade investments then held by the insurer would exceed twenty percent (20%) of its admitted assets;
 2. The aggregate amount of lower grade investments then held by the insurer would exceed ten percent (10%) of its admitted assets;
 3. The aggregate amount of investments rated 5 or 6 by the SVO then held by the insurer would exceed three percent (3%) of its admitted assets;
 4. The aggregate amount of investments rated 6 by the SVO then held by the insurer would exceed one percent (1%) of its admitted assets; or
 5. The aggregate amount of medium and lower grade investments then held by the insurer that receive as cash income less than the equivalent yield for Treasury issues with a comparative average life, would exceed one percent (1%) of its admitted assets.
- (b) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Sections 9, 12, and 15 of this Act, or counterparty exposure under subsection (4) of Section 16 of this Act, if, as a result of and after giving effect to the investment:
1. The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one percent (1%) of its admitted assets; or
 2. The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset

or pool of assets, then held by the insurer would exceed one-half of one percent (0.5%) of its admitted assets.

- (c) If an insurer attains or exceeds the limit of any one (1) rating category referred to in this subsection, the insurer shall not be precluded from acquiring investments in other rating categories subject to the specific multicategory limits applicable to those investments.
- (3) (a) An insurer shall not acquire, directly or indirectly through an investment subsidiary, a Canadian investment authorized by this subtitle, if as a result of and after giving effect to the investment, the aggregate amount of these investments then held by the insurer would exceed forty percent (40%) of its admitted assets, or if the aggregate amount of Canadian investments not acquired under subsection (2) of Section 9 of this Act then held by the insurer would exceed twenty-five percent (25%) of its admitted assets.
- (b) However, as to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of paragraph (a) of this subsection shall be increased by the greater of:
1. The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or
 2. One hundred fifteen percent (115%) of the amount of its reserves and other obligations under contracts on lives or risks resident or located in Canada.

SECTION 9. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Subject to the limitations of subsection (6) of this section, an insurer may acquire rated credit instruments:

- (1) Subject to the limitations of subsection (2) of Section 8 of this Act, but not the limitations of subsection (1) of Section 8 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:
- (a) The United States; or
 - (b) A government sponsored enterprise of the United States, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by the United States, or are otherwise backed or supported by the full faith and credit of the United States.
- (2) (a) Subject to the limitations of subsection (2) of Section 8 of this Act, but not to the limitations of subsection (1) of Section 8 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:
1. Canada; or
 2. A government sponsored enterprise of Canada, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada;
- (b) However, an insurer shall not acquire an instrument under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this subsection would exceed forty percent (40%) of its admitted assets.
- (3) (a) Subject to the limitations of subsection (2) of Section 8 of this Act, but not to the limitations of subsection (1) of Section 8 of this Act, an insurer may acquire rated credit instruments, excluding asset-backed securities:
1. Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund;
 2. Issued, assumed, guaranteed, or insured by a government sponsored enterprise of the United States other than those eligible under subsection (1) of this section;
 3. Issued, assumed, guaranteed, or insured by a state, if the instruments are general obligations of the state; or
 4. Issued by a multilateral development bank;
- (b) However, an insurer shall not acquire an instrument of any one (1) fund, any one (1) enterprise or entity, or any one (1) state under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held in any one (1) fund, enterprise, entity, or state under this subsection would exceed ten percent (10%) of its admitted assets.
- (4) Subject to the limitations of Section 8 of this Act, an insurer may acquire preferred stocks that are not foreign investments and that meet the requirements of rated credit instruments if, as a result of and after giving effect to the investment;
- (a) The aggregate amount of preferred stocks then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and
 - (b) The aggregate amount of preferred stocks then held by the insurer under this subsection which are not sinking

fund stocks or rated P1 or P2 by the SVO does not exceed ten percent (10%) of its admitted assets.

- (5) Subject to the limitations of Section 8 of this Act, in addition to those investments eligible under subsections (1) to (4) of this section, an insurer may acquire rated credit instruments that are not foreign investments.
- (6) An insurer shall not acquire special rated credit instruments under this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments then held by the insurer would exceed five percent (5%) of its admitted assets.

SECTION 10. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer may acquire investments in investment pools that :

- (a) Invest only in:

- 1. Obligations that are rated 1 or 2 by SVO or have an equivalent of an SVO 1 or 2 rating or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 or equivalent rating by a nationally recognized statistical rating organization recognized by the SVO and have:
 - a. A remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or
 - b. A remaining maturity of three (3) years or less and a floating interest rate that resets no less frequently than quarterly on the basis of a current short-term index (federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR), or commercial paper) and is subject to no maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;
- 2. Government money market mutual funds or class one money market mutual funds; or
- 3. Securities lending, repurchase, and reverse repurchase transactions that meet all the requirements of Section 14 of this Act, except the quantitative limitations subsection (4) of Section 14 of this Act; or

- (b) Invest only in investments that an insurer may acquire under this subtitle, if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this subtitle.

- (2) For an investment in an investment pool to be qualified under this subtitle, the investment pool shall not:

- (a) Acquire securities issued, assumed, guaranteed, or insured by the insurer or an affiliate of the insurer;
- (b) Borrow or incur an indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of Section 14 of this Act, except the quantitative limitations of subsection (4) of Section 14 of this Act; or
- (c) Permit the aggregate value of securities then loaned or sold to, purchased from, or invested in any one (1) business entity under this section to exceed ten percent (10%) of the total assets of the investment pool.

- (3) The limitations of subsection (1) of Section 8 of this Act shall not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool under this section if, as a result of and after giving effect to the investment, the aggregate amount of investment then held by the insurer under this section:

- (a) In any one (1) investment pool would exceed ten percent (10%) of its admitted assets;
- (b) In all investment pools investing in investments permitted under paragraph (b) of subsection (1) of this section would exceed twenty-five (25%) of its admitted assets; or
- (c) In all investment pools would exceed thirty-five percent (35%) of its admitted assets.

- (4) For an investment in an investment pool to be qualified under this subtitle, the manager of the investment pool shall:

- (a) Be organized under the laws of the United States or a state and designated as the pool manager in a pooling agreement;
- (b) Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or in the case of a United States branch of an alien insurer, its United States manager or affiliates or subsidiaries of its United States manager;
- (c) Compile and maintain detailed accounting records setting forth:
 - 1. The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;
 - 2. A complete description of all underlying assets of the investment pool, including amount, interest rate, maturity date if any, and other appropriate designations; and
 - 3. Other records that, on a daily basis, allow third parties to verify each participant's investment in the

investment pool; and

- (d) Maintain the assets of the investment pool in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement with a qualified bank. The custody agreement shall:
1. State and recognize the claims and rights of each participant;
 2. Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and
 3. Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the custodian qualified bank or any other person.
- (5) The pooling agreement for each investment pool shall be in writing and shall provide that:
- (a) An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments permitted under paragraph (a) of subsection (1) of this section, the insurer and its subsidiaries, affiliates, or any pension or profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall at all times, hold one hundred percent (100%) of the interest in the investment pool;
 - (b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;
 - (c) In proportion to the aggregate amount of each pool participant's interest in the investment pool:
 1. Each participant owns an undivided interest in the underlying assets of the investment pool; and
 2. The underlying assets of the investment pool are held solely for the benefit of each participant;
 - (d) A participant, or in the event of the participant's insolvency, bankruptcy, or receivership, its trustee, receiver, or other successor-in-interest, may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;
 - (e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five (5) business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:
 1. In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;
 2. In kind, a pro rata share of each underlying asset; or
 3. In a combination of cash and in-kind distributions, a pro rata share in each underlying asset; and
 - (f) The pool manager shall make the records of the investment pool available for inspection by the commissioner.

SECTION 11. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the limitations of Section 8 of this Act, an insurer may acquire equity interests in business entities organized under the laws of any domestic jurisdiction.
- (2) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of investment then held by the insurer under this section would exceed twenty percent (20%) of its admitted assets, or the amount of equity interests then held by the insurer that are not listed on a qualified exchange would exceed five percent (5%) of its admitted assets. An accident and health insurer shall not be subject to this section but shall be subject to the same aggregate limitation on equity interests as a property and casualty insurer under Section 24 of this Act and also to the provisions of Section 20 of this Act.
- (3) An insurer shall not acquire under this section any investment that the insurer may acquire under Section 13 of this Act.
- (4) An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity instrument exercisable within six (6) months of the short sale.

SECTION 12. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Subject to the limitations of Section 8 of this Act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments.
- (b) Investments acquired under paragraph (a) of this subsection shall be eligible only if:
 1. The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under Section 9 of

this Act; and

2. The lease or other agreement gives the insurer the right to receive rental, purchase, or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, shall be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.
- (2) The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.
- (3) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed;
 - (a) Two percent (2%) of its admitted assets; or
 - (b) One-half of one percent (0.5%) of its admitted assets as to any single item of tangible personal property.
- (4) For purposes of determining compliance with the limitations of Section 8 of this Act, investments acquired by an insurer under this section shall be aggregated with those acquired under Section 9 of this Act, and each lessee of the property under a lease referred to in this section shall be the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection (2) of this section.
- (5) Nothing in this section is applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost sharing arrangement or agreement permitted under KRS 305.37-030.

SECTION 13. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Subject to the limitations of Section 8 of this Act, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan that is secured by other than a first lien shall not be acquired unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority, shall not, at the time of acquisition of the obligation, exceed:
 1. Ninety percent (90%) of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate;
 2. Eighty percent (80%) of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payment in periodic installments of principal and interest, has an amortization period of thirty (30) years or less, and periodic payments made no less frequently than annually. Each periodic payment shall be sufficient to assure that at all times the outstanding principal balance of the mortgage loan shall be no greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance, with the same interest rate, and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans permitted under this subsection are permitted notwithstanding the fact that they provide for a payment of the principal balance prior to the end of the period of amortization of the loan. For residential mortgage loans, the eighty percent (80%) limitation may be increased to ninety-seven percent (97%) if acceptable private mortgage insurance has been obtained; or
 3. Seventy-five percent (75%) of the fair market value of the real estate for mortgage loans that do not meet the requirements of subparagraph 1. or 2. of this paragraph.
- (b) For purposes of paragraph (a) of this subsection, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration, guaranteed by the Administrator of Veteran Affairs, or their successors.
- (c) A mortgage loan that is held by an insurer under subsection (6) of Section 2 of this Act or acquired under this section and is restructured in a manner that meets the requirements of a restructured mortgage loan in accordance with the NAIC Accounting Practices and Procedures Manual or successor publication shall continue to qualify as a mortgage loan under this subtitle.
- (d) Subject to the limitations of Section 8 of this Act, credit lease transactions that do not qualify for investment under Section 9 of this Act with the following characteristics shall be exempt from the provisions of paragraph (a) of this subsection :
 1. The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;
 2. The lease payments cover or exceed the total debt service over the life of the loan;
 3. A tenant or its affiliated entity whose rated credit instruments have a SVO 1 or 2 designation or a

- comparable rating from a nationally recognized statistical rating organization recognized by the SVO has a full faith and credit obligation to make the lease payments;
4. The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;
 5. The expenses of the real estate are passed through to the tenant, excluding exterior, structural, parking, and heating, ventilation, and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and
 6. There is a perfected assignment of the rents due in accordance with the lease to or for the benefit of the insurer.
- (2) (a) An insurer may acquire, manage, and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments. The real estate shall be income producing or intended for improvement or development for investment purposes under an existing program in which case the real estate shall be deemed to be income producing.
- (b) The real estate may be subject to mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with paragraphs (b) and (c) of subsection (4) of this section.
- (3) (a) An insurer may acquire, manage, and dispose of real estate for the convenient accommodation of the insurer's, which may include its affiliates, business operations, including home office, branch office, and field office operations:
1. Real estate acquired under this subsection may include excess space for rent to others, if the excess space, valued at its fair market value, would otherwise be a permitted investment under subsection (2) of this section and is so qualified by the insurer;
 2. The real estate acquired under this subsection may be subject to one (1) or more mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with paragraph (d) of subsection (4) of this section; and
 3. For purposes of this subsection, "business operations" shall not include that portion of real estate used for the direct provision of health care services by an accident and health insurer or its insured. An insurer may acquire real estate used for these purposes under subsection (2) of this section.
- (4) (a) An insurer shall not acquire an investment under subsection (1) of this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under subsection (1) of this section would exceed:
1. One percent (1%) of its admitted assets in mortgage loans covering any one (1) secured location;
 2. One-quarter of one percent (0.25%) of its admitted assets in construction loans covering any one (1) secured location; or
 3. Two percent (2%) of its admitted assets in construction loans in the aggregate.
- (b) An insurer shall not acquire an investment under subsection (2) of this section if, as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments then held by the insurer under subsection (2) of this section plus the guarantees then outstanding would exceed:
1. One percent (1%) of its admitted assets in one (1) parcel or group of contiguous parcels of real estate, except that this limitation shall not apply to that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds, such as hospitals, medical clinics, medical professional buildings, or other health facilities used for the purpose of providing health services; or
 2. Fifteen percent (15%) of its admitted assets in the aggregate, but not more than five percent (5%) of its admitted assets as to properties that are to be improved or developed.
- (c) An insurer shall not acquire an investment under subsection (1) or (2) of this section if, as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment, the aggregate amount of all investments then held by the insurer under subsections (1) and (2) of this section plus the guarantees then outstanding would exceed forty-five percent (45%) of its admitted assets. However, an insurer may exceed this limitation by no more than thirty percent (30%) of its admitted assets if:
1. This increased amount is invested only in residential mortgage loans;

2. The insurer has no more than ten percent (10%) of its admitted assets invested in mortgage loans other than residential mortgage loans;
 3. The loan-to-value ratio of each residential mortgage loan does not exceed sixty percent (60%) at the time the mortgage loan is qualified under this increased authority, and the fair market value is supported by an appraisal no more than two (2) years old, prepared by an independent appraiser;
 4. A single mortgage loan qualified under this increased authority shall not exceed one-half of one percent (0.5%) of its admitted assets;
 5. The insurer files with the commissioner, and receives approval from the commissioner for, a plan that is designed to result in a portfolio of residential mortgage loans that is sufficiently geographically diversified; and
 6. The insurer agrees to file annually with the commissioner records that demonstrate that its portfolio of residential mortgage loans is geographically diversified in accordance with the plan.
- (d) The limitations of Section 8 of this Act shall not apply to an insurer's acquisition of real estate under subsection (3) of this section. An insurer shall not acquire real estate under subsection (3) of this section if, as a result of and after giving effect to the acquisition, the aggregate amount of real estate then held by the insurer under subsection (3) of this section would exceed ten percent (10%) of its admitted assets. With the permission of the commissioner, additional amounts of real estate may be acquired under subsection (3) of this section.

SECTION 14. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer may enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to the following requirements:

- (1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in Section 3 of this Act that specifies guidelines and objectives to be followed, such as:
 - (a) A description of how cash received will be invested or used for general corporate purposes of the insurer;
 - (b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transactions; and
 - (c) The extent to which the insurer may engage in these transactions.
- (2) The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement shall require that each transaction terminate not more than one (1) year from its inception or upon the earlier demand of the insurer. The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:
 - (a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and
 - (b) Prohibits securities lending transactions under the agreement with the agent or its affiliates.
- (3) Cash received in a transaction under this section shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes. For so long as the transaction remains outstanding, the insurer, its agent, or its custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the commissioner:
 - (a) Possession of the acceptable collateral;
 - (b) A perfected security interest in the acceptable collateral; or
 - (c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.
- (4) The limitations of Sections 8 and 15 of this Act shall not apply to the business entity counterparty exposure created by transactions under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:
 - (a) The aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity counterparty under this section would exceed five percent (5%) of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or
 - (b) The aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this

section would exceed forty percent (40%) of its admitted assets.

- (5) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the market value of the loaned securities.
- (6) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent (95%) of the market value of the securities transferred by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent (95%) of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals ninety-five percent (95%) of the market value of the transferred securities.
- (7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.
- (8) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to one hundred two percent (102%) of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the insurer, the business entity counterparty shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the purchase price. Securities acquired by an insurer in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

SECTION 15. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the limitations of Section 8 of this Act, an insurer may acquire foreign investments, or engage in investment practices with persons of or in foreign jurisdictions, of substantially the same types as those that an insurer is permitted to acquire under this subtitle, other than of the type permitted under Section 10 of this Act, if, as a result of and after giving effect to the investment:
 - (a) The aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and
 - (b) The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or three percent (3%) of its admitted assets as to any other foreign jurisdiction.
- (2) Subject to the limitations of Section 8 of this Act, an insurer may acquire investments, or engage in investment practices denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (1) of this section, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency, if:
 - (a) The aggregate amount of investments then held by the insurer under this subsection denominated in foreign currencies does not exceed ten percent (10%) of its admitted assets; and
 - (b) The aggregate amount of investments then held by the insurer under this subsection denominated in the foreign currency of a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or three percent (3%) of its admitted assets as to any other foreign jurisdiction;
 - (c) However, an investment shall not be considered denominated in a foreign currency if the acquiring insurer enters into one (1) or more contracts in transactions permitted under Section 16 of this Act and the business entity counterparty agrees under the contract or contracts to exchange all payments made on the foreign currency denominated investment for United States currency at a rate that effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.
- (3) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is authorized to do business in a foreign jurisdiction, and that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investment respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction, subject to the limitations of Section 8 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises

shall not be subject to the limitations of Section 10 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed the greater of:

- (a) The amount the insurer is required by the law of the foreign jurisdiction to invest in the foreign jurisdiction; or
 - (b) One hundred fifteen percent (115%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.
- (4) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is not authorized to do business in a foreign jurisdiction, but that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations of Section 8 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 8 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed one hundred five percent (105%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.
- (5) Investments acquired under this section shall be aggregated with investments of the same types made in accordance with this subtitle, and in a similar manner, for purposes of determining compliance with the limitations, if any, contained in this subtitle. Investments in obligations of foreign governments, their political subdivisions, and government sponsored enterprises of these persons, except for those exempted under subsections (3) and (4) of this section, shall be subject to the limitations of Section 8 of this Act.

SECTION 16. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:

- (1) (a) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in regulations promulgated by the commissioner; and
- (b) An insurer shall be able to demonstrate to the commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses.
- (2) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:
 - (a) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one-half percent (7.5%) of its admitted assets;
 - (b) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent (3%) of its admitted assets; and
 - (c) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent (6.5%) of its admitted assets.
- (3) An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed ten percent (10%) of its admitted assets:
 - (a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;
 - (b) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call options sold;
 - (c) Sales of covered puts on investments that the insurer is permitted to acquire under this subtitle, if the insurer has escrowed or entered into a custodian agreement segregating cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or
 - (d) Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding.

- (4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of Section 8 of this Act.
- (5) In accordance with administrative regulations promulgated under Section 6 of this Act, the commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of subsection (2) of this section or for other risk management purposes under administrative regulations promulgated by the commissioner, but replication transactions shall not be permitted for other than risk management purposes.

SECTION 17. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A life insurer may lend to a policyholder on the security of the cash surrender value of the policyholder's policy a sum not exceeding the legal reserve that the insurer is required to maintain on the policy.

SECTION 18. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Solely for the purpose of acquiring investments that exceed the quantitative limitations of Sections 8 to 15 of this Act, an insurer may acquire under this subsection an investment, or engage in investment practices described in Section 14 of this Act, but an insurer shall not acquire an investment, or engage in investment practices described in Section 14 of this Act, under this subsection if, as a result of and after giving effect to the transaction:
 - (a) The aggregate amount of investments then held by an insurer under this subsection would exceed three percent (3%) of its admitted assets; or
 - (b) The aggregate amount of investments as to one (1) limitation in Sections 8 to 15 of this Act then held by the insurer under this subsection would exceed one percent (1%) of its admitted assets.
- (2) (a) In addition to the authority provided under subsection (1) of this section, an insurer may acquire under this subsection an investment of any kind, or engage in investment practices described in Section 14 of this Act, that are not specifically prohibited by this subtitle, without regard to the categories, conditions, standards, or other limitations of Sections 8 to 15 of this Act if, as a result of and after giving effect to the transaction, the aggregate amount of investments then held under this subsection would not exceed the lesser of:
 - 1. Ten percent (10%) of its admitted assets; or
 - 2. Seventy-five percent (75%) of its capital and surplus.
 - (b) However, an insurer shall not acquire any investment or engage in any investment practice under this subsection if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one (1) person then held by the insurer under this subsection would exceed three percent (3%) of its admitted assets.
- (3) In addition to the investments acquired under subsections (1) and (2) of this section, an insurer may acquire under this subsection an investment of any kind, or engage in investment practices described in Section 14 of this Act, that are not specifically prohibited by this subtitle without regard to any limitations of Sections 8 to 15 of this Act if:
 - (a) The commissioner grants prior approval;
 - (b) The insurer demonstrates that its investments are being made in a prudent manner and that the additional amounts will be invested in a prudent manner; and
 - (c) As a result of and after giving effect to the transaction, the aggregate amount of investments then held by the insurer under this subsection does not exceed the greater of:
 - 1. Twenty-five percent (25%) of its capital and surplus; or
 - 2. One hundred percent (100%) of capital and surplus less ten percent (10%) of its admitted assets.
- (4) An investment prohibited under Section 4 of this Act, not permitted under Section 16 of this Act, or additional derivative instruments acquired under Section 16 of this Act shall not be acquired under this section.

SECTION 19. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 19 to 30 of this Act shall apply to the investments and investment practices of property and casualty, financial guaranty, and mortgage guaranty insurers, of domestic insurers and United States branches of alien insurers entered through this state.

SECTION 20. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to all other limitations and requirements of this subtitle, a property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall maintain an amount at least equal to one hundred percent (100%) of adjusted loss reserves and loss adjustment expense reserves, one hundred percent (100%) of adjusted unearned premium reserves, and one hundred percent (100%) of statutorily required policy and contract reserves in :
 - (a) Cash and cash equivalents;
 - (b) High and medium grade investments that qualify under Section 22 or 23 of this Act;
 - (c) Equity interests that qualify under Section 24 of this Act and that are traded on a qualified exchange;

- (d) Investments of the type set forth in Section 28 of this Act, if the investments are rated in the highest generic rating category by a nationally recognized statistical rating organization recognized by the SVO for rating foreign jurisdictions and if any foreign currency exposure is effectively hedged through the maturity date of the investments;
- (e) Qualifying investments of the type set forth in paragraph (b), (c), or (d) of this subsection that are acquired under Section 30 of this Act;
- (f) Interest and dividends receivable on qualifying investments of the type set forth in paragraphs (a) to (e) of this subsection; or
- (g) Reinsurance recoverable on paid losses.
- (2) Determining the reserve requirement amount shall be as follows:
 - (a) For purposes of determining the amount of assets to be maintained under this subsection, the calculation of adjusted loss reserves and loss adjustment expense reserves, adjusted unearned premium reserves, and statutorily required policy and contract reserves shall be based on the amounts reported as of the most recent annual or quarterly statement date;
 - (b) Adjusted loss reserves and loss adjustment expense reserves shall be equal to the sum of the amounts derived from the following calculations:
 - 1. The result of each amount reported by the insurer as losses and loss adjustment expenses unpaid for each accident year for each individual line of business; multiplied by
 - 2. The discount factor that is applicable to the line of business and accident year published by the Internal Revenue Service under Internal Revenue Code Section 846 (26 U.S.C. sec. 846), as amended, for the calendar year that corresponds to the most recent annual statement of the insurer; minus
 - 3. Accrued retrospective premiums discounted by an average discount factor. The discount factor shall be calculated by dividing the losses and loss adjustment expenses unpaid after discounting (the product of subparagraphs 1. and 2. of this paragraph) by loss and loss adjustment expense reserves before discounting subparagraph 1. of this paragraph; and
 - 4. For purposes of these calculations, the losses and loss adjustment expenses unpaid shall be determined net of anticipated salvage and subrogation, and gross of any discount for the time value of money or tabular discount.
 - (c) Adjusted unearned premium reserves shall be equal to the result of the following calculation:
 - 1. The amount reported by the insurer as unearned premium reserves; minus
 - 2. The admitted asset amounts reported by the insurer as:
 - a. Premiums in and agents' balances in the course of collection, accident and health premiums due and unpaid, and uncollected premiums for accident and health premiums;
 - b. Premiums, agents' balances, and installments booked but deferred and not yet due; and
 - c. Bills receivable, taken for premium.
 - (d) Statutorily required policy and contract reserves also shall include, in the case of a title insurer, the amounts required by KRS 304.6-080 and, in the case of a mortgage guaranty insurer, the amounts required by KRS 304.6-090 and, in the case of an accident and health insurer, the amounts required by KRS 304.6-070.
- (3) A property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall supplement its annual statement with a reconciliation and summary of its assets and reserve requirements as required in subsection (1) of this section. A reconciliation and summary showing that an insurer's assets as required in subsection (1) of this section are greater than or equal to its undiscounted reserves referred to in subsection (1) of this section shall be sufficient to satisfy this requirement. Upon prior notification, the commissioner may require an insurer to submit a reconciliation and summary with any quarterly statement filed during the calendar year.
- (4) If a property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer's assets and reserves do not comply with subsection (1) of this section, the insurer shall notify the commissioner immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain why the deficiency exists, and within thirty (30) days of the date of the notice propose a plan of action to remedy the deficiency.
- (5) If the commissioner determines that an insurer is not in compliance with subsection (1) of this section, the commissioner shall require the insurer to eliminate the condition causing the noncompliance within a specified time from the date the notice of the commissioner's requirement is mailed or delivered to the insurer.
- (6) If an insurer fails to comply with the commissioner's requirement under subsection (5) of this section, the insurer is deemed to be in hazardous financial condition, and the commissioner shall take one (1) or more of the actions authorized by Subtitle 33 of KRS Chapter 304, and KRS 304.3-330.

SECTION 21. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Except as otherwise specified in this subtitle, an insurer shall not acquire directly or indirectly through an investment subsidiary an investment under this subtitle if, as a result of and after giving effect to the investment, the insurer would hold more than five percent (5%) of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person.
- (2) This five percent (5%) limitation shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.
- (3) Asset-backed securities shall not be subject to the limitations of subsection (1) of this section. However, an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity, then held by the insurer would exceed five percent (5%) of its admitted assets.
- (4) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Section 22, 25, or 28 of this Act, or counterparty exposure under subsection (4) of Section 29 of this Act if, as a result of and after giving effect to the investment:

 - (a) The aggregate amount of all medium and lower grade investments then held by the insurer would exceed twenty percent (20%) of its admitted assets;
 - (b) The aggregate amount of lower grade investments then held by the insurer would exceed ten percent (10%) of its admitted assets;
 - (c) The aggregate amount of investments rated 5 or 6 by the SVO then held by the insurer would exceed five percent (5%) of its admitted assets;
 - (d) The aggregate amount of investments rated 6 by the SVO then held by the insurer would exceed one percent (1%) of its admitted assets; or
 - (e) The aggregate amount of medium and lower grade investments then held by the insurer that receive as cash income less than the equivalent yield for Treasury issues with a comparative average life, would exceed one percent (1%) of its admitted assets.
- (5) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Section 22, 25, or 28 of this Act, or counterparty exposure under subsection (4) of Section 29 of this Act if, as a result of and after giving effect to the investment:

 - (a) The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one percent (1%) of its admitted assets; or
 - (b) The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one-half of one percent (0.5%) of its admitted assets.
- (6) If an insurer attains or exceeds the limit of any one (1) rating category referred to in subsections (4) to (6) of this section, the insurer shall not thereby be precluded from acquiring investments in other rating categories subject to the specific and multicategory limits applicable to those investments.
- (7) An insurer shall not acquire, directly or indirectly through an investment subsidiary, any Canadian investments authorized by this subtitle, if as a result of and after giving effect to the investment, the aggregate amount of these investments then held by the insurer would exceed forty percent (40%) of its admitted assets, or if the aggregate amount of Canadian investments not acquired under subsection (2) of Section 22 of this Act then held by the insurer would exceed twenty-five percent (25%) of its admitted assets.
- (8) However, as to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of subsection (7) of this section shall be increased by the greater of:

 - (a) The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or
 - (b) One hundred twenty-five percent (125%) of the amount of its reserves and other obligations under contracts on risks resident or located in Canada.

SECTION 22. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the limitations of subsections (4) to (6) of Section 21 of this Act, but not to the limitations of subsections (1) to (3) of Section 21 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

 - (a) The United States; or
 - (b) A government sponsored enterprise of the United States, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by the United States or are otherwise backed or supported by the

full faith and credit of the United States.

- (2) (a) Subject to the limitations of subsections (4) to (6) of Section 21 of this Act, but not to the limitations of subsections (1) to (3) of Section 21 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:
1. Canada; or
 2. A government sponsored enterprise of Canada, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada;
- (b) However, an insurer shall not acquire an instrument under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this subsection would exceed forty percent (40%) of its admitted assets.
- (3) (a) Subject to the limitations of subsections (4) to (6) of Section 21 of this Act, but not to the limitations of subsections (1) to (3) of Section 21 of this Act, an insurer may acquire rated credit instruments, excluding asset-backed securities:
1. Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund;
 2. Issued, assumed, guaranteed, or insured by a government sponsored enterprise of the United States other than those eligible under subsection (1) of this section;
 3. Issued, assumed, guaranteed, or insured by a state, if the instruments are general obligations of the state; or
 4. Issued by a multilateral development bank;
- (b) However, an insurer shall not acquire an instrument of any one (1) fund, any one (1) enterprise or entity, or any one (1) state under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held in any one (1) fund enterprise or entity, or state under this subsection would exceed ten percent (10%) of its admitted assets.
- (4) Subject to the limitations of Section 21 of this Act, an insurer may acquire preferred stocks that are not foreign investments and that meet the requirements of rated credit instruments if, as a result of and after giving effect to the investment:
- (a) The aggregate amount of preferred stocks then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and
 - (b) The aggregate amount of preferred stocks then held by the insurer under this subsection that are not sinking fund stocks or rated P1 or P2 by the SVO does not exceed ten percent (10%) of its admitted assets.
- (5) Subject to the limitations of Section 21 of this Act, in addition to those investments eligible under subsections (1) to (4) of this section, an insurer may acquire rated credit instruments that are not foreign investments.
- (6) An insurer shall not acquire special rated credit instruments under this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments then held by the insurer would exceed five percent (5%) of its admitted assets.

SECTION 23. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer may acquire investments in investment pools that:
- (a) Invest only in:
 1. Obligations that are rated 1 or 2 by the SVO or have an equivalent of an SVO 1 or 2 rating or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 equivalent rating by a nationally recognized statistical rating organization recognized by the SVO and have:
 - a. A remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or
 - b. A remaining maturity of three (3) years or less and a floating interest rate that resets no less frequently than quarterly on the basis of a current short-term index (federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR), or commercial paper) and is subject to no maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;
 2. Government money market mutual funds or class one money market mutual funds; or
 3. Securities lending, repurchase, and reverse repurchase transactions that meet all the requirements of

Section 27 of this Act, except the quantitative limitations of subsection (4) of Section 27 of this Act; or

- (b) Invest only in investments that an insurer may acquire under this subtitle, if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this subtitle.
- (2) For an investment in an investment pool to be qualified under this subtitle, the investment pool shall not:
 - (a) Acquire securities issued, assumed, guaranteed, or insured by the insurer or an affiliate of the insurer;
 - (b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of Section 27 of this Act, except the quantitative limitations of subsection (4) of Section 27 of this Act; or
 - (c) Permit the aggregate value of securities then loaned or sold to, purchased from, or invested in any one (1) business entity under this section to exceed ten percent (10%) of the total assets of the investment pool.
- (3) The limitations of subsections (1) to (3) of Section 21 of this Act shall not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool under this section if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this section:
 - (a) In any one (1) investment pool would exceed ten percent (10%) of its admitted assets;
 - (b) In all investment pools investing in investments permitted under paragraph (b) of subsection (1) of this section would exceed twenty-five percent (25%) of its admitted assets; or
 - (c) In all investment pools would exceed forty percent (40%) of its admitted assets.
- (4) For an investment in an investment pool to be qualified under this subtitle, the manager of the investment pool shall:
 - (a) Be organized under the laws of the United States or a state and designated as the pool manager in a pooling agreement;
 - (b) Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or in the case of a United States branch of an alien insurer, its United States manager or affiliates or subsidiaries of its United States manager;
 - (c) Compile and maintain detailed accounting records setting forth:
 - 1. The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;
 - 2. A complete description of all underlying assets of the investment pool, including amount, interest rate, maturity date if any, and other appropriate designations; and
 - 3. Other records that, on a daily basis, allow third parties to verify each participant's investment in the investment pool; and
 - (d) Maintain the assets of the investment pool in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement with a qualified bank. The custody agreement shall:
 - 1. State and recognize the claims and rights of each participant;
 - 2. Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investment in the investment pool; and
 - 3. Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the custodian qualified bank or any other person.
- (5) The pooling agreement for each investment pool shall be in writing and shall provide that:
 - (a) An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments permitted under paragraph (a) of subsection (1) of this section, the insurer and its subsidiaries, affiliates, or any pension or profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall, at all times, hold one hundred percent (100%) of the interests in the investment pool;
 - (b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;
 - (c) In proportion to the aggregate amount of each pool participant's interest in the investment pool:
 - 1. Each participant owns an undivided interest in the underlying assets of the investment pool; and
 - 2. The underlying assets of the investment pool are held solely for the benefit of each participant;
 - (d) A participant, or in the event of the participant's insolvency, bankruptcy, or receivership, its trustee, receiver, or other successor-in-interest, may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five (5) business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

1. In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;
2. In kind, a pro rata share of each underlying asset; or
3. In a combination of cash and in-kind distributions, a pro rata share in each underlying asset; and

(f) The pool manager shall make the records of the investment pool available for inspection by the commissioner.

SECTION 24. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the limitations of Section 21 of this Act, an insurer may acquire equity interests in business entities organized under the laws of any domestic jurisdiction.
- (2) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this section would exceed the greater of twenty-five percent (25%) of its admitted assets or one hundred percent (100%) of its surplus as regards policyholders.
- (3) An insurer shall not acquire under this section any investments that the insurer may acquire under Section 26 of this Act.
- (4) An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity instrument exercisable within six (6) months of the short sale.

SECTION 25. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Subject to the limitations of Section 21 of this Act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments.
- (b) Investments acquired under paragraph (a) of this subsection shall be eligible only if:
 1. The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under Section 22 of this Act; and
 2. The lease or other agreement provides the insurer the right to receive rental, purchase, or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, shall be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.
- (2) The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.
- (3) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed:
 - (a) Two percent (2%) of its admitted assets; or
 - (b) One-half of one percent (0.5%) of its admitted assets as to any single item of tangible personal property.
- (4) For purposes of determining compliance with the limitations of Section 21 of this Act, investments acquired by an insurer under this section shall be aggregated with those acquired under Section 22 of this Act, and each lessee of the property under a lease referred to in this section shall be deemed the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection (2) of this section.
- (5) Nothing in this section is applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost-sharing arrangement or agreement permitted under KRS 304.37-030.

SECTION 26. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the limitations of Section 21 of this Act, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan that is secured by other than a first lien shall not be acquired unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority, shall not, at

the time of acquisition of the obligation, exceed:

- (a) Ninety percent (90%) of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate;
 - (b) Eighty percent (80%) of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payments in periodic installments of principal and interest, has an amortization period of thirty (30) years or less, and periodic payments made no less frequently than annually. Each periodic payment shall be sufficient to assure that at all times the outstanding principal balance of the mortgage loan shall not be greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance, with the same interest rate, and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans permitted under this subsection are permitted notwithstanding the fact that they provide for a payment of the principal balance prior to the end of the period of amortization of the loan. For residential mortgage loans, the eighty percent (80%) limitation may be increased to ninety-seven percent (97%) if acceptable private mortgage insurance has been obtained; or
 - (c) Seventy-five percent (75%) of the fair market value of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b) of this subsection.
- (2) For purposes of subsection (1) of this section, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration, guaranteed by the Administrator of Veteran Affairs, or their successors.
 - (3) A mortgage loan that is held by an insurer under subsection (6) of Section 2 of this Act or acquired under this section and is restructured in a manner that meets the requirement of a restructured mortgage loan in accordance with the NAIC Accounting Practices and Procedures Manual or successor publication shall continue to qualify as a mortgage loan under this subtitle.
 - (4) Subject to the limitations of Section 21 of this Act, credit lease transactions that do not qualify for investment under Section 22 of this Act with the following characteristics shall be exempt from the provisions of subsection (1) of this section:
 - (a) The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;
 - (b) The lease payments cover or exceed the total debt service over the life of the loan;
 - (c) A tenant or its affiliated entity whose rated credit instruments have a SVO 1 or 2 designation or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO has a full faith and credit obligation to make the lease payments;
 - (d) The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;
 - (e) The expenses of the real estate are passed through to the tenant excluding exterior, structural, parking, and heating, ventilation and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and
 - (f) There is a perfected assignment of the rents due under the lease to or for the benefit of the insurer.
 - (5) An insurer may acquire, manage, and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments. The real estate shall be income producing or intended for improvement or development for investment purposes under an existing program, in which case the real estate shall be deemed to be income producing.
 - (6) The real estate may be subject to mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsections (9) and (10) of this section.
 - (7) An insurer may acquire, manage, and dispose of real estate for the convenient accommodation of the insurer's, which may include its affiliates, business operations, including home office, branch office, and field office operations.
 - (a) Real estate acquired under this subsection may include excess space for rent to others if the excess space, valued at its fair market value, would otherwise be a permitted investment under subsections (5) and (6) of this section and is so qualified by the insurer;
 - (b) The real estate acquired under this subsection may be subject to one (1) or more mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsection (11) of this section; and
 - (c) For purposes of this subsection, "business operations" shall not include that portion of real estate used for the

direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively. An insurer may acquire real estate used for these purposes under subsections (5) and (6) of this section.

- (8) An insurer shall not acquire an investment under subsections (1) to (4) of this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under subsections (1) to (4) of this section would exceed:
- (a) One percent (1%) of its admitted assets in mortgage loans covering any one (1) secured location;
 - (b) One-quarter of one percent (0.25%) of its admitted assets in construction loans covering any one (1) secured location; or
 - (c) One percent (1%) of its admitted assets in construction loans in the aggregate.
- (9) An insurer shall not acquire an investment under subsections (5) and (6) of this section if, a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments then held by the insurer under subsections (5) and (6) of this section plus the guarantees then outstanding would exceed:
- (a) One percent (1%) of its admitted assets in any one (1) parcel or group of contiguous parcels of real estate, except that this limitation shall not apply to that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively, such as hospitals, medical clinics, medical professional buildings, or other health facilities used for the purpose of providing health services; or
 - (b) The lesser of ten percent (10%) of its admitted assets or forty percent (40%) of its surplus as regards policyholders in the aggregate, except for an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively, this limitation shall be increased to fifteen percent (15%) of its admitted assets in the aggregate.
- (10) An insurer shall not acquire an investment under subsections (1) to (6) of this section if, as a result of and after giving effect to the investment and any guarantees it has made in connection with the investment, the aggregate amount of all investments then held by the insurer under subsections (1) to (6) of this section plus the guarantees then outstanding would exceed twenty-five percent (25%) of its admitted assets.
- (11) The limitations of Section 21 of this Act shall not apply to an insurer's acquisition of real estate under subsection (7) of this section. An insurer shall not acquire real estate under subsection (7) of this section if, as a result of and after giving effect to the acquisition, the aggregate amount of all real estate then held by the insurer under subsection (7) of this section would exceed ten percent (10%) of its admitted assets. With the permission of the commissioner, additional amounts of real estate may be acquired under subsection (7) of this section.

SECTION 27. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions with business entities, subject to the following requirements:

- (1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in subsection (1) of Section 3 of this Act that specifies guidelines and objectives to be followed, such as:
- (a) A description of how cash received will be invested or used for general corporate purposes of the insurer;
 - (b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and
 - (c) The extent to which the insurer may engage in these transactions.
- (2) The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement shall require that each transaction terminate not more than one (1) year from its inception or upon the earlier demand of the insurer. The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:
- (a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and
 - (b) Prohibits securities lending transactions under the agreement with the agent or its affiliates.
- (3) Cash received in a transaction under this section shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes. For so long

as the transaction remains outstanding, the insurer, its agent, or its custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the commissioner:

- (a) Possession of the acceptable collateral;
 - (b) A perfected security interest in the acceptable collateral; or
 - (c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.
- (4) The limitations of Sections 21 and 28 of this Act shall not apply to the business entity counterparty exposure created by transactions under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:
- (a) The aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity counterparty under this section would exceed five percent (5%) of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or
 - (b) The aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this section would exceed forty percent (40%) of its admitted assets, but the limitation of this subsection shall not apply to reverse repurchase transactions for so long as the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and subject to a plan approved by the commissioner.
- (5) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the market value of the loaned securities.
- (6) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent (95%) of the market value of the securities transferred by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent (95%) of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral being held in connection with the transaction, at least equals ninety-five percent (95%) of the market value of the transferred securities.
- (7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.
- (8) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to one hundred two percent (102%) of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the insurer, the business entity counterparty shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the purchase price. Securities acquired by an insurer in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

SECTION 28. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the limitations of Section 21 of this Act, an insurer may acquire foreign investments, or engage in investment practices, with persons of or in foreign jurisdictions of substantially the same types as those that an insurer is permitted to acquire under this subtitle, other than of the type permitted under Section 23 of this Act, if, as a result of and after giving effect to the investment:
- (a) The aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and
 - (b) The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or five percent (5%) of its admitted assets as to any other foreign jurisdiction.

- (2) Subject to the limitations of Section 21 of this Act, an insurer may acquire investments, or engage in investment practices denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (1) of this section, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency, if:
- (a) The aggregate amount of investments then held by the insurer under this subsection denominated in foreign currencies does not exceed fifteen percent (15%) of its admitted assets; and
 - (b) The aggregate amount of investments then held by the insurer under this subsection denominated in the foreign currency of a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or five percent (5%) of its admitted assets as to any other foreign jurisdiction;
 - (c) However, an investment shall not be considered denominated in a foreign currency if the acquiring insurer enters into one (1) or more contracts in transactions permitted under Section 29 of this Act and the business entity counterparty agrees under the contract or contracts to exchange all payments made on the foreign currency denominated investment for United States currency at a rate that effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.
- (3) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is not authorized to do business in a foreign jurisdiction and that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in a foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations set forth in Section 21 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 21 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed the greater of:
- (a) The amount the insurer is required by law to invest in the foreign jurisdiction; or
 - (b) One hundred twenty-five percent (125%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts.
- (4) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is not authorized to do business in a foreign jurisdiction but that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in a foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations set forth in Section 21 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 21 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed one hundred five percent (105%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts on risks resident or located in the foreign jurisdiction.
- (5) Investments acquired under this section shall be aggregated with investments of the same types made under this subtitle, and in a similar manner, for purposes of determining compliance with the limitations of this subtitle, if any. Investments in obligations of foreign governments, their political subdivisions, and government sponsored enterprises of these persons, except for those exempted under subsections (3) and (4) of this section, shall be subject to the limitations of Section 21 of this Act.

SECTION 29. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:
- (a) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in administrative regulations promulgated by the commissioner.
 - (b) An insurer shall be able to demonstrate to the commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analyses.
- (2) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:
- (a) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one-half percent (7.5%) of its admitted assets;

- (b) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent (3%) of its admitted assets; and
- (c) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent (6.5%) of its admitted assets.
- (3) An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed ten percent (10%) of its admitted assets:
 - (a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;
 - (b) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold; or
 - (c) Sales of covered puts on investments that the insurer is permitted to acquire under this subtitle, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold.
- (4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of Section 21 of this Act.
- (5) In accordance with administrative regulations promulgated under Section 6 of this Act, the commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of subsection (2) of this section or for other risk management purposes under administrative regulations promulgated by the commissioner, but replication transactions shall not be permitted for other than risk management purposes.

SECTION 30. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) An insurer may acquire under this section investments, or engage in investment practices, of any kind that are not specifically prohibited by this subtitle, or engage in investment practices, without regard to any limitation in Sections 21 to 28 of this Act, but an insurer shall not acquire an investment or engage in an investment practice under this section if, as a result of and after giving effect to the transaction, the aggregate amount of the investments then held by the insurer under this section would exceed the greater of:
 - (a) Its unrestricted surplus; or
 - (b) The lesser of:
 - 1. Ten percent (10%) of its admitted assets; or
 - 2. Fifty percent (50%) of its surplus as regards policyholders.
- (2) An insurer shall not acquire an investment or engage in any investment practice under paragraph (b) of subsection (1) of this section if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one (1) person then held by the insurer under that subsection would exceed five percent (5%) of its admitted assets.

Section 31. KRS 304.7-240 is amended to read as follows:

- (1) The amounts allocated to each separate account established by the insurer in connection with a pension, retirement or profit-sharing plan, life insurance or an annuity pursuant to KRS 304.15-390 together with accumulations thereon, may be invested and reinvested in any class of investments which may be authorized in the written contract or agreement without regard to any requirements or limitations prescribed by this subtitle; except, that to the extent that the insurer's reserve liability with regards to:
 - (a)~~((1))~~ Benefits guaranteed as to amount and duration: and
 - (b)~~((2))~~ Funds guaranteed as to principal amount or stated rate of interest, is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with the applicable provisions of this subtitle.

The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to other investments of the insurer.

- (2) On application by an insurer, the commissioner may approve different investment limitations and restrictions for specified separate accounts of the insurer. The commissioner shall only approve the insurer's proposed limitations and restrictions if he finds that the requested investment limitations and restrictions adequately protect the interests of the insured protected by the separate account and the solvency of the insurer.

Section 32. KRS 304.7-320 is amended to read as follows:

- (1) An insurer may enter into an agreement for the purpose of protecting its interests in securities lawfully held by it, or for the purpose of reorganization of the corporation which issued or is obligated on account of ~~the[such]~~ securities, and may

deposit ~~the[such]~~ securities with a committee appointed under ~~[such]~~ an agreement.

- (2) An insurer may accept corporate stocks, bonds or other securities distributed ***in accordance with the*** ~~[pursuant to any such]~~ agreement or reorganization. Any securities so received which are otherwise ineligible as investments of the insurer shall be disposed of as provided in ***Section 2 of this Act*** ~~[KRS 304.7-300].~~

Section 33. KRS 304.7-340 is amended to read as follows:

An insurer shall not invest in any note or other evidence of indebtedness of any director or officer of the insurer, except as to policy loans authorized under ***Section 5 of this Act*** ~~[KRS 304.7-180]~~ and obligations subject to ***Section 13 of this Act*** ~~[the provisions of KRS 304.7-200]~~ secured by first mortgages or deeds of trust upon improved real property to be occupied as a personal residence by such director or officer of the insurer.

Section 34. KRS 304.7-350 is amended to read as follows:

- (1) All obligations having a fixed term, rate, and face value held by an insurer authorized to do business in this state may, if amply secured and not in default either as to principal or interest, be valued as follows: if acquired at face value, at the face value; if acquired above or below face value, on the basis of the purchase price adjusted annually to bring the value to face value at maturity and so as to yield in each year the effective rate of interest at which the purchase was made. The amortization provided for in this subsection may be calculated with reasonable approximations. The commissioner shall have the power to determine by rule the eligibility of investments for valuation under this subsection.
- (2) (a) Securities, other than those referred to in subsection (1) of this section, held by an insurer shall be valued, in the discretion of the commissioner, at their fair market value, at their appraised value, or at prices determined by the commissioner as representing their fair market value.
- (b) Preferred or guaranteed stock or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with the method of computation he approves.
- (c) Securities qualifying under KRS 304.7-120, ***Section 18 of this Act, or Section 30 of this Act*** ~~[and 304.7-270]~~ shall be valued at their fair value or net equity value, except that securities of a subsidiary insurance corporation as provided for in KRS 304.7-120 shall be valued either at cost or on a net equity basis, whichever is greater.
- (3) (a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of acquisition, together with any taxes and expenses paid or incurred in connection with acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.
- (b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal deemed by the commissioner to be reliable. If valuation is based on an appraisal more than three (3) years old, the commissioner may, at his discretion, call for and require a new appraisal in order to determine fair value.
- (c) Personal property acquired pursuant to chattel mortgages or security agreements ~~[made in accordance with subsection (10) of KRS 304.7-200]~~ shall not be valued at an amount greater than the unpaid principal of the defaulted loan at the date of acquisition, together with any taxes and expenses paid or incurred in connection with acquisition, or the fair value of the property, whichever amount is the lesser.
- (4) However, in all cases securities shall be valued in accordance with the standards promulgated by ~~[the securities valuation office of]~~ the National Association of Insurance Commissioners ***including the Purposes and Procedures of the Securities Valuation Office, the Valuation of Securities Manual, the Accounting Practices and Procedures Manual, the Annual Statement Instructions, or any successor valuation procedures officially adopted by the NAIC*** ~~[and other assets shall be valued in accordance with standards promulgated by the National Association of Insurance Commissioners Financial Condition Subcommittee].~~

Section 35. The following KRS sections are repealed:

- 304.7-020 Eligible investments.
- 304.7-030 General qualifications.
- 304.7-050 Diversification.
- 304.7-060 Public obligations.
- 304.7-070 Obligations and stock of certain federal and international agencies.
- 304.7-080 Corporate obligations.
- 304.7-085 Unconditional obligations.
- 304.7-090 Definitions of "obligations" and "institution."
- 304.7-100 Preferred or guaranteed stocks.

- 304.7-110 Common stocks.
- 304.7-130 Equipment securities.
- 304.7-140 Acceptances, bills of exchange.
- 304.7-145 Limitation on investments -- Quality ratings for securities.
- 304.7-150 Savings institutions.
- 304.7-160 Common trust funds, mutual funds.
- 304.7-170 Hydrocarbon production payments.
- 304.7-180 Policy loans.
- 304.7-190 Collateral loans.
- 304.7-200 Mortgage loans.
- 304.7-205 Mortgage pass-through securities.
- 304.7-210 Real estate.
- 304.7-220 Housing developments.
- 304.7-230 Leased property.
- 304.7-270 Miscellaneous investments.
- 304.7-290 Time limit for disposal of real estate.
- 304.7-300 Time limit for disposal of other property and securities.
- 304.7-310 Failure to dispose of real estate, personal property or securities.

The Committee on Judiciary reported **HB 259**, with Committee Substitute attached thereto, **HB 329**, with Committee Substitute attached thereto, **HB 494**, with Committee Substitute attached thereto, and **SB 33** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 259, AN ACT relating to mechanics' liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.250 is amended to read as follows:

- (1) When an attested copy of the lien statement and proof of the delivery of an attested copy as provided in KRS 376.240 is delivered to any public authority which has contracted for the construction or improvement of any bridge, public highway, or other public property owned by the state, a subdivision or agency thereof, or by any city, county, urban-county, or charter county government, the public authority shall endorse on the attested copy the date of its receipt, file the copy and deduct and withhold the amount thereof, plus \$1.25 to cover the fee of the county clerk for filing the statement and attesting a copy, from any amount then due the contractor, and if a sufficient amount is not then due the contractor from the next payments which become due.
- (2) Unless the contractor, within thirty (30) days from the date of the delivery of the attested copy, files with the public authority a written protest putting in issue the correctness of the amount due the lien claimant or the liability of the fund for payment thereof, the amount withheld shall be paid by the public authority to the lien claimant and charged to the account of the contractor, which payment shall operate as a pro tanto release of the public authority from any claim of the contractor under the contract for the amount so paid. The filing in the county clerk's office of the statement of lien provided for in subsection (2) of KRS 376.230 shall be constructive notice to the contractor of the filing of the claim.
- (3) If the contractor files a written protest as provided in subsection (2) of this section, the public authority with whom the protest is filed shall endorse thereon the date of its receipt. ***The public authority shall promptly send written notice of the protest to the lien claimant by certified mail, return receipt requested,*** and shall not pay over to the lien claimant any of the money withheld from the contractor until authorized to do so by the contractor or until directed to do so by an order or judgment of court.
- (4) If suit is not instituted by the lien claimant for the enforcement of the lien and summons in the suit is not served on the public authority or its chairman within thirty (30) days after the ***written notice of the protest is mailed to the claimant***~~(filing by the contractor of the protest)~~, then the lien shall automatically be released and the funds withheld pursuant to the filing of the lien statement shall be released and promptly paid to the contractor. If suit is filed and summons served within the time provided, the payment of the funds shall be withheld until ordered to be released or paid over by an order or judgment of the court, and then paid as directed by the order or judgment.
- (5) All suits for the enforcement of these liens on public funds shall be instituted in the Circuit Court of the county in which is located the property on which the improvement is made, except where the property is owned by a public university. Where the property is owned by a public university, the suit shall be instituted in the Circuit Court of the county in which is located the main campus of the public university. This court shall have exclusive jurisdiction for the enforcement of

liens asserted against the public funds due the contractors, subject to the same rights of appeal as in other civil cases.

SECTION 2. A NEW SECTION OF KRS 376.195 TO 376.260 IS CREATED TO READ AS FOLLOWS:

Any person contracting with the public authority for the furnishing of any improvements or services for which a lien is created by KRS 376.210 may, at any time before a judgment is rendered enforcing the lien, execute before the county clerk in the county in which the lien was filed a bond for double the amount of the lien claimed with good sureties to be approved by the clerk, conditioned upon the obligors satisfying any judgment that may be rendered in favor of the person asserting the lien. The bond shall be preserved by the clerk and upon its execution the lien provided by KRS 376.210 shall be discharged. The person asserting the lien may make the obligors in the bond parties to any action to enforce his claim, and any judgment received may be against any of the obligors on the bond.

The Committee Substitute No. 1 to **HB 259** is as follows:

HB 259, AN ACT relating to mechanics' liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.250 is amended to read as follows:

- (1) When an attested copy of the lien statement and proof of the delivery of an attested copy as provided in KRS 376.240 is delivered to any public authority which has contracted for the construction or improvement of any bridge, public highway, or other public property owned by the state, a subdivision or agency thereof, or by any city, county, urban-county, or charter county government, the public authority shall endorse on the attested copy the date of its receipt, file the copy and deduct and withhold the amount thereof, plus \$1.25 to cover the fee of the county clerk for filing the statement and attesting a copy, from any amount then due the contractor, and if a sufficient amount is not then due the contractor from the next payments which become due.
- (2) Unless the contractor, within thirty (30) days from the date of the delivery of the attested copy, files with the public authority a written protest putting in issue the correctness of the amount due the lien claimant or the liability of the fund for payment thereof, the amount withheld shall be paid by the public authority to the lien claimant and charged to the account of the contractor, which payment shall operate as a pro tanto release of the public authority from any claim of the contractor under the contract for the amount so paid. The filing in the county clerk's office of the statement of lien provided for in subsection (2) of KRS 376.230 shall be constructive notice to the contractor of the filing of the claim.
- (3) If the contractor files a written protest as provided in subsection (2) of this section, the public authority with whom the protest is filed shall endorse thereon the date of its receipt. The public authority shall promptly send written notice of the protest to the lien claimant by certified mail, return receipt requested, and shall not pay over to the lien claimant any of the money withheld from the contractor until authorized to do so by the contractor or until directed to do so by an order or judgment of court.
- (4) If suit is not instituted by the lien claimant for the enforcement of the lien and summons in the suit is not served on the public authority or its chairman within thirty (30) days after the written notice of the protest is mailed to the claimant ~~filing by the contractor of the protest~~, then the lien shall automatically be released and the funds withheld pursuant to the filing of the lien statement shall be released and promptly paid to the contractor. If suit is filed and summons served within the time provided, the payment of the funds shall be withheld until ordered to be released or paid over by an order or judgment of the court, and then paid as directed by the order or judgment.
- (5) All suits for the enforcement of these liens on public funds shall be instituted in the Circuit Court of the county in which is located the property on which the improvement is made, except where the property is owned by a public university. Where the property is owned by a public university, the suit shall be instituted in the Circuit Court of the county in which is located the main campus of the public university. This court shall have exclusive jurisdiction for the enforcement of liens asserted against the public funds due the contractors, subject to the same rights of appeal as in other civil cases.

SECTION 2. A NEW SECTION OF KRS 376.195 TO 376.260 IS CREATED TO READ AS FOLLOWS:

- (1) Any person contracting with the public authority for the furnishing of any improvements or services for which a lien is created by KRS 376.210 may, at any time before a judgment is rendered enforcing the lien, execute before the county clerk in the county in which the lien was filed a bond for double the amount of the lien claimed.
- (2) The bond executed under subsection (1) of this section shall be subject to the following conditions:
 - (a) The bond shall be approved by the clerk only if the bond is secured by:
 1. Cash;
 2. A letter of credit from a bank; or
 3. Surety insurance as defined by KRS 304.5-060 that is issued by a licensed insurer; and
 - (b) The bond shall require that the obligor satisfy any judgment that may be rendered in favor of the person asserting the lien.

- (3) The bond shall be preserved by the clerk, and upon its execution, the lien provided by KRS 376.210 shall be discharged.
- (4) The person asserting the lien may make the obligors in the bond parties to any action to enforce his claim, and any judgment received may be against any of the obligors on the bond.

HB 329, AN ACT relating to video voyeurism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of video voyeurism when he or she:
 - (a) Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping a person if that person has not consented to the observing, viewing, photographing, filming, or videotaping; and
 - (b) The observing, viewing, photographing, filming, or videotaping depicts:
 - 1. Human sexual organs, male or female;
 - 2. The female breast below the top of the areola; or
 - 3. Sexual intercourse, normal or deviate, between humans; and
 - (c) The observing, viewing, photographing, filming, or videotaping is used for a commercial purpose, or is used for any other public purpose other than as legal evidence in a court of law, or is placed on the Internet, whether for charge or not; or
 - (d) Transfers an image obtained by activity described in paragraph (a), (b), and (c) of this subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial on-line service.
- (2) Video voyeurism is a Class C felony and the sentence shall be served without benefit of probation, shock probation, prerelease probation, parole, or suspension of sentence.

SECTION 2. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

The provisions of Section 1 of this Act shall not apply to the transference of prohibited images by a telephone company, a cable television company or any of its affiliates, an Internet provider, or a commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

Unless objected to by the victim or victims of the video voyeurism, the court, on its own motion, or on motion of the attorney for the Commonwealth shall:

- (1) Order all photographs, film, videotapes, or other images that are introduced into evidence or are in the possession of law enforcement, the prosecution, or the court to be sealed; and
- (2) At the conclusion of the case, unless required for additional prosecutions, order all of the photographs, film, videotapes, or other images that are in the possession of law enforcement, the prosecution, or the court to be destroyed.

The Committee Substitute No. 1 to HB 329 is as follows:

HB 329, AN ACT relating to video voyeurism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of video voyeurism when he or she intentionally:
 - (a) Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; and
 - (b) Uses or divulges any image so obtained for consideration; or
 - (c) Distributes any image so obtained by live or recorded visual medium, electronic mail, the Internet, or a commercial on-line service.
- (2) Video voyeurism is a Class D felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

The provisions of Section 1 of this Act shall not apply to the transference of prohibited images by a telephone company, a cable television company or any of its affiliates, an Internet provider, or a commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-

line services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

Unless objected to by the victim or victims of the video voyeurism, the court, on its own motion, or on motion of the attorney for the Commonwealth shall:

- (1) Order all photographs, film, videotapes, or other images that are introduced into evidence or are in the possession of law enforcement, the prosecution, or the court to be sealed; and
- (2) At the conclusion of the case, unless required for additional prosecutions, order all of the photographs, film, videotapes, or other images that are in the possession of law enforcement, the prosecution, or the court to be destroyed.

HB 494, AN ACT relating to criminal records checks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in a nursing facility or nursing pool providing staff to a nursing facility or in a position funded by the Department for Social Services or the Office of Aging Services of the Cabinet for Families and Children and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request ~~and shall not exceed five dollars (\$5) per application~~.

The Committee Substitute No. 1 to **HB 494** is as follows:

HB 494, AN ACT relating to criminal records checks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in a nursing facility or nursing pool providing staff to a nursing facility or in a position funded by the Department for Social Services or the Office of Aging Services of the Cabinet for Families and Children and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request ~~and shall not exceed five dollars (\$5) per application~~.

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

- (1) In any instance that the Justice Cabinet is required by statute to conduct a criminal records or background check, the Justice Cabinet may contract with the Administrative Office of the Courts to perform that service.
- (2) (a) Except as provided in paragraph (b) of this subsection, the Administrative Office of the Courts shall set a reasonable fee for a criminal records check conducted by the office in an amount no greater than the actual cost of conducting that criminal records check.
(b) When another statute sets the dollar amount of the fee charged for a criminal records check conducted by the Administrative Office of the Courts, the office shall charge that fee.
- (3) The Administrative Office of the Courts shall be required to accept a criminal records check request only when the request is made:
(a) By letter, electronic mail, or facsimile transmission; or
(b) In person.
- (4) The Administrative Office of the Courts may establish an escrow account for a person who frequently requests that the office conduct criminal records checks.

SB 33, AN ACT relating to trial commissioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.100 is amended to read as follows:

- (1) In any county which does not have a District Judge resident in the county there shall be a trial commissioner.
- (2) Trial commissioners shall be appointed in the manner required by Section 113 of the Constitution of Kentucky and shall perform such duties as may be directed by the Supreme Court.
- (3) Trial commissioners in District Court shall be compensated as provided in the judicial personnel system, ~~provided, however that~~ No trial commissioner shall be compensated at a rate greater than ten thousand dollars (\$10,000) ~~seven thousand two hundred dollars (\$7,200)~~ per year, ~~except that during the disability or suspension of a District Judge for a period in excess of sixty (60) days, a trial commissioner who is qualified as an attorney and who is authorized to perform extraordinary duties, may be compensated by the Supreme Court in an amount not exceeding the salary of a District Judge, provided such trial commissioner shall not engage in the practice of law during the period of extraordinary service.~~

The Committee on Agricultural and Small Business reported **HB 5, HB 593, HB 611, SB 123, and SCR 15** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to special agricultural license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) The owner or lessee of a motor vehicle registered under KRS 186.050(1), (3)(a), or (4)(a) may apply for a special agricultural license plate. The owner or lessee shall apply for the special agricultural license plate in the office of the county clerk in the county where the person lives. When the owner or lessee applies for a special agricultural license plate, the county clerk shall inform the owner or lessee that the person's application and state fee shall be sent to Frankfort to the Transportation Cabinet where it will be held for a period not to exceed one (1) year while the cabinet is waiting to receive a total of one thousand eight hundred (1,800) applications under subsection (2) of this section.
- (2) The Transportation Cabinet shall print special agricultural license plates if the cabinet has received one thousand eight hundred (1,800) applications and the accompanying state fee of twenty-two dollars (\$22) within a one (1) year period. If the cabinet has not received one thousand eight hundred (1,800) applications within one (1) year from the date the cabinet receives the first application for a special agricultural license plate, the cabinet shall refund the twenty-two dollar (\$22) state fee to the appropriate applicants.
- (3) Subject to the provisions of subsection (2) of this section, the initial application fee for the first one thousand eight hundred (1,800) special agricultural license plates printed by the Transportation Cabinet shall be twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall be divided as follows:
 - (a) The Transportation Cabinet shall receive a fee of twenty-two dollars (\$22) which includes the state fee to reflectorize the license plate under KRS 186.240(2)(c); and
 - (b) The county clerk shall receive a fee of three dollars (\$3).
- (4) The initial application fee for every special agricultural license plate printed by the Transportation Cabinet in excess of one thousand eight hundred (1,800) shall be twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall be divided as follows:
 - (a) The Transportation Cabinet shall receive a fee of twelve dollars (\$12);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The county clerk shall remit a fee of ten dollars (\$10) to the Division of Marketing within the Kentucky Department of Agriculture, or its successor, which shall use the fee exclusively to carry out the provisions of subsection (9) of this section.
- (5) A special agricultural license plate shall annually be issued a renewal registration decal during the owner's or lessee's birth month. The annual renewal fee shall be twenty dollars (\$20) and shall be divided as follows:
 - (a) The Transportation Cabinet shall receive a fee of twelve dollars (\$12), which includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);
 - (b) The county clerk shall receive a fee of three dollars (\$3); and
 - (c) The county clerk shall remit a fee of five dollars (\$5) to the Division of Marketing within the Kentucky Department of Agriculture, or its successor, which shall use the fee exclusively to carry out the provisions of subsection (9) of this section.
- (6) Except as provided in this subsection, the special agricultural license plate shall be replaced on the same schedule that regular license plates are replaced by the Transportation Cabinet under KRS 186.240. A special agricultural license

plate shall be replaced free of charge if:

(a) The metal plate:

1. Is destroyed in an accident;
2. Deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible;
or
3. Is stolen; and

(b) The owner or lessee has not transferred the vehicle issued the plate during the current licensing period.

- (7) A person seeking a special agricultural license plate for a vehicle provided as part of his or her occupation shall conform to the requirements of KRS 186.050(14).
- (8) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special agricultural license plate and return it and the certificate of registration to the county clerk of the county where the owner or lessee lives. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a twelve dollar (\$12) state fee, which includes the state fee to reflectorize the license plate under KRS 186.240(2)(c), and a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special agricultural license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special agricultural license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk, who shall forward the plate to Frankfort.
- (9) The Division of Marketing within the Kentucky Department of Agriculture, or its successor, shall deposit all funds received from the sale of special agricultural license plates issued under subsections (4) and (5) of this section into a special trust and agency account. The account shall be used exclusively for marketing development to promote Kentucky agricultural products in both domestic and international markets.
- (10) License plates shall be the color and design selected by the Kentucky Commissioner of Agriculture. The commissioner may select up to three (3) designs of three (3) colors each. The name "Kentucky" shall appear on the special agricultural license plate. The cabinet may use any combination of letters or numerals as needed in the design.

HB 593, AN ACT relating to Tobacco Master Settlement Agreement compliance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, "consent order" means the consent order of December 21, 1998 agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket Number 98-CI-01579, Franklin Circuit Court.
- (2) There is created the Tobacco Master Settlement Agreement Compliance Advisory Board in the Department of Law. The board shall be composed of six (6) members as follows:
 - (a) The Attorney General, or the Attorney General's designee;
 - (b) The secretary of the Cabinet for Health Services, or the secretary's designee;
 - (c) The Commissioner of Agriculture, or the commissioner's designee;
 - (d) The secretary of the Public Protection and Regulation Cabinet, or the secretary's designee; and
 - (e) Two (2) citizens at large appointed by the Attorney General.
- (3) The citizen members of the board shall serve for terms of one (1) year and until their successors are appointed. The citizen members shall be eligible for successive terms on the board.
- (4) The board shall annually elect a member to serve as its chair and shall meet at least quarterly on a date set by the board. Board members shall be reimbursed for necessary expenses incurred in serving on the board.
- (5) The board may adopt rules governing the conduct of its meetings, the creation of meeting agendas, and other procedural matters it deems necessary. The board may adopt reporting forms, which shall be developed in consultation with participating agencies.
- (6) The Office of the Attorney General shall:
 - (a) Enter into a memorandum of agreement with the Department of Public Health of the Cabinet for Health Services, the Alcoholic Beverage Control in the Public Protection and Regulation Cabinet, and the Department of Agriculture to identify and report possible violations of the consent order;
 - (b) Attempt to secure funding under the master settlement agreement to reimburse the agencies specified in paragraph (a) of this subsection for any compliance activity that they perform; and
 - (c) Provide necessary funding and staff for administrative expenses related to the operation of the board. The board may request assistance from other state agencies.

(7) The Tobacco Master Settlement Agreement Compliance Advisory Board shall:

- (a) Identify activities for which training is required for personnel of the state agencies specified in paragraph (a) of subsection (6) of this section that are responsible for identifying and reporting possible violations of the consent order;**
- (b) Determine eligible compliance training costs and seek reimbursement for the costs; and**
- (c) Notify the appropriate tobacco manufacturer, in writing, of any alleged violation of the consent order and request a response and, if applicable, a corrective action plan within thirty (30) days from the date of the notice. If the manufacturer fails to respond or to satisfactorily resolve the matter, the board shall review the matter at its next meeting and may refer the matter to the Office of the Attorney General for enforcement action, if warranted.**

Section 2. The General Assembly confirms Department of Law Administrative Order 99-01, signed by the Attorney General on February 3, 1999, except for Section 12, which establishes June 30, 2000 as the expiration date of the Order unless extended by subsequent Administrative Order.

HB 611, AN ACT relating to the tobacco Master Settlement Agreement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

- (1) "Board" means the Rural Development Board created by Section 2 of this Act;**
- (2) "Fund" means the rural development fund established by an Act of the 2000 Regular Session;**
- (3) "Subcommittee" means the Rural Development Oversight Committee created by Section 5 of this Act; and**
- (4) "Council" means the rural development advisory council authorized by Section 6 of this Act.**

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) The Rural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.**
- (2) The board's highest priority for distributing funds shall be to tobacco farmers and tobacco-impacted communities most adversely affected by the loss of tobacco income, as determined by a formula using tobacco income as a percentage of total personal income.**
- (3) The board shall consist of twenty (20) members as follows:**
 - (a) Three (3) voting members or their designees, as follows:**
 - 1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;**
 - 2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor; and**
 - 3. The secretary of the Cabinet for Economic Development;**
 - (b) Twelve (12) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House and Senate as provided in KRS 11.160(2). The members shall be as follows:**
 - 1. One (1) representative of the Kentucky Farm Bureau;**
 - 2. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;**
 - 3. One (1) representative of the Kentucky League of Cities;**
 - 4. One (1) representative of the Kentucky Association of Counties;**
 - 5. One (1) attorney with farm experience and familiarity with agricultural policy;**
 - 6. One (1) agricultural lender; and**
 - 7. Six (6) active farmers; and**
 - (c) Five (5) ex officio, nonvoting members of the General Assembly, as follows:**
 - 1. Two (2) members of the Senate, one (1) appointed by the President of the Senate and one (1) appointed by the Minority Leader of the Senate; and**
 - 2. Three (3) members of the House of Representatives, two (2) appointed by the Speaker of the House and one (1) appointed by the Minority Leader of the House.**

- (4) The members appointed under subsection (3)(b) 1. to 4. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.
- (5) The majority of the voting members shall be active farmers.
- (6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.
- (7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:
 - (a) Three (3) members shall be appointed for one (1) year;
 - (b) Three (3) members shall be appointed for two (2) years;
 - (c) Three (3) members shall be appointed for three (3) years; and
 - (d) Three (3) members shall be appointed for four (4) years.
- (8) The Governor shall convene the first meeting of the board by July 1, 2000, and the board shall create committees, including, but not limited to, committees on:
 - (a) Access to Capital;
 - (b) Environmental Cost Share;
 - (c) Marketing and Entrepreneurship; and
 - (d) Technology, Infrastructure, and Training.
- (9) The board shall meet quarterly, or at the call of the chair or a majority of the voting members.
- (10) A quorum of the board shall consist of eight (8) voting members. A majority of the voting members present may act upon matters before the board.
- (11) The board shall be attached to the Governor's Office for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) The board's duties shall include, but not be limited to:
 - (a) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have on the agriculture community in the Commonwealth;
 - (b) Promulgating administrative regulations relating to carrying out the purposes of Sections 1 to 6 of this Act;
 - (c) Hiring a director to carry out the will of the board;
 - (d) Ensuring the necessary mechanisms are in place for the committees created by Section 2 of this Act to function effectively;
 - (e) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;
 - (f) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;
 - (g) Administering the fund;
 - (h) Providing at least quarterly reports to the Rural Development Oversight Committee created by Section 5 of this Act. These reports shall contain detailed information relating to each proposed project that is being recommended by the board; and
 - (i) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Rural Development Oversight Committee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board.
- (2) In administering the fund under subsection (1)(g) of this section, the board shall be governed by the following principles:
 - (a) Individuals, groups, educational institutions, governmental entities, and other agriculturally related entities are eligible to receive moneys from the fund; and
 - (b) No more than one percent (1%) of the fund's annual receipts shall be expended on the administrative costs of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) The committees of the board shall be composed of board members knowledgeable about the programs being overseen by each committee.
- (2) The committees shall develop criteria for programs to be considered by the board. The committees shall make recommendations to the board, and the board shall determine which programs are to be overseen and implemented by the committees. The board shall determine which individual projects in each program are approved.

- (3) Programs that shall be created and funded by the board and overseen and implemented by the committees include:
- (a) A Phase II Supplement Program to ensure that payments to tobacco quota owners and growers are maintained at the same level as the 1999 level of one hundred fourteen million dollars (\$114,000,000). The board shall use information provided by the Kentucky Tobacco Settlement Trust Corporation in determining the payments to quota holders and growers;
 - (b) A Rural Community and Entrepreneurship Program to support small farm agricultural diversification through technical assistance, business mentoring, and financial incentives;
 - (c) A Farm Market Development and Infrastructure Program to develop regional, integrated farm markets, and regional or community capital projects;
 - (d) An Environmental Stewardship Program to provide cost-share assistance to farmland owners for compliance with the state agriculture water quality plan and other environmental compliance requirements;
 - (e) A Farmland Preservation Program to provide Purchase of Agricultural Conservation Easement matching funding to city, county, or urban-county governments that have enacted agricultural conservation easement acquisition programs for the purchase of agricultural development rights; and
 - (f) A Rural Water Line Extension Program to provide municipal water in areas of high agricultural activity.
- (4) The board may create other agricultural assistance programs in addition to those created under subsection (3) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Rural Development Oversight Committee. The subcommittee shall be composed of seven (7) members and shall include members of the House of Representatives and members of the Senate. The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years. The members so appointed shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.
- (2) The subcommittee shall meet monthly, or at the call of the chair. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).
- (3) A quorum of the subcommittee shall consist of four (4) members. A majority of the members present may act upon matters before the subcommittee.
- (4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).
- (5) The subcommittee shall review each project being recommended by the board. In reviewing the projects, the subcommittee shall determine whether the criteria developed for the programs created under Section 4 of this Act have been met and whether any other relevant requirements have been met.
- (6) If the subcommittee determines that any of the criteria or requirements required by Sections 1 to 6 of this Act have not been met, the subcommittee may, by majority vote, recommend to the board in writing that a project not be approved. The reasons for not approving a project shall be stated in the correspondence, which shall be issued within sixty (60) days of receiving the recommendation from the board.
- (7) If the board approves a project that the subcommittee has recommended in writing not be approved, the board shall provide a written explanation to the subcommittee why the project was approved. The written explanation shall be sent within thirty (30) days of receiving the subcommittee's notification.
- (8) The subcommittee shall maintain records of its findings and determinations. The records shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission and to the General Assembly when next convened.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) A rural development advisory council may be established in each county to evaluate the programs being funded by the board and to devise a plan for the county that would utilize the programs best suited for the agricultural members of the county. The council would assist prospective applicants in the council's county in obtaining moneys from the fund. Each council shall consist of eight (8) members as follows:
 - (a) Two (2) members selected by the Farm Service Agency county committee;
 - (b) Two (2) members selected by the soil conservation district board;
 - (c) Two (2) members selected by the county extension council; and
 - (d) Two (2) young farmers between the ages of twenty-one (21) and thirty-five (35), selected by the six (6) members in paragraphs (a) to (c) of this subsection.

- (2) Each council shall be attached to the county cooperative extension service for administrative support.
- (3) Each council shall utilize the services of the Kentucky Small Business Development Center Network for assistance and support in aiding prospective applicants in obtaining moneys from the fund.
- (4) Councils may work cooperatively with each other to develop regional strategies for enhancing agriculture opportunities for farmers.

Section 7. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Council on Postsecondary Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Kentucky Commission on Human Rights;
- (5) Kentucky Commission on Women;
- (6) Kentucky Commission on Military Affairs;
- (7) Coal Marketing and Export Council;
- (8) Governor's Office of Child Abuse and Domestic Violence Services;
- (9) Office of the Chief Information Officer; ~~and~~
- (10) Office of Coal Marketing and Export; and
- (11) Rural Development Board.

Section 8. As used in subsection (2) of Section 1 of this Act, "rural development fund" means the fund with that name created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session. In codifying subsection (2) of Section 1 of this Act, the Reviser of Statutes may substitute the relevant KRS section number for the phrase "Act of the 2000 Regular Session" in that subsection.

Section 9. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 123, AN ACT relating to cigarettes and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.020 is amended to read as follows:

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, and shall enforce the cigarette provisions of Sections 2 to 10 of this Act, except that the collection of taxes shall be administered by the Revenue Cabinet.
- (2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.
- (3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.
- (4) A cigarette unit, under the supervision of the board, shall administer the provisions of Sections 2 to 10 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 10 of this Act:

- (1) "Cigarettes" means cigarettes as defined in KRS 138.130;
- (2) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);
- (4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;
- (5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;
- (6) "Package" means package as is defined in 15 U.S.C. sec. 1333(4); and
- (7) "Person" means person as defined in KRS 446.010.

SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

No person shall:

- (1) Sell, distribute, acquire, hold, own, possess in this Commonwealth; transport for sale or distribution in this Commonwealth; or import or cause to be imported into this Commonwealth for sale or distribution in this

Commonwealth:(a) Any cigarettes the package of which:

1. Bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States including, but not limited to, a label stating "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording; or
2. Does not comply with:
 - a. All requirements imposed by or in accordance with federal law regarding warnings, and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States including, but not limited to, the precise warning label specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; and
 - b. All federal trademark and copyright laws;

(b) Any cigarettes imported into the United States on or after January 1, 2000, in violation of 26 U.S.C. sec. 5754 or any other federal law, or implementing federal regulations;

(c) Any cigarettes that a person knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; or

(d) Any cigarettes for which there has not been submitted to the Secretary of the United States Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1355a;

(2) Alter the package of any cigarettes, prior to the sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

(a) Any statement, label, stamp, sticker, or notice described in subsection (1)(a)2.a. of this section; or

(b) Any health warning that is not specified in or does not conform with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; or

(3) Affix any stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 to the package of any cigarettes described in subsection (1) of this section or altered in violation of subsection (2) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

On the tenth business day of each month, each person licensed to affix the stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 shall file with the commissioner, for all cigarettes imported into the United States to which the person has affixed the stamp required by KRS 138.146 or made other evidence of tax payment as provided in KRS 138.155 in the preceding month:

(1) A copy of:

(a) The permit issued under the Internal Revenue Code, 26 U.S.C. sec. 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and

(b) The customs form containing, with respect to the cigarettes, the internal revenue tax information required by the United States Bureau of Alcohol, Tobacco, and Firearms;

(2) A statement signed by the person under penalty of perjury, identifying the brand and brand styles of all cigarettes, the quantity of each brand style of cigarettes, the supplier of the cigarettes, and the person or persons, if any, to whom the cigarettes have been conveyed for resale. The statement shall be treated as confidential by the commissioner and shall not be subject to public disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884; and

(3) A statement signed by an officer of the manufacturer or importer under the penalty of perjury certifying that the manufacturer or importer has complied with:

(a) The package and health warning and ingredient reporting requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333 and 1335a. with respect to the cigarettes; and

(b) The state's model statute under the master settlement agreement indicating whether the manufacturer is or is not a participating tobacco manufacturer within the meaning of the model state act required under the master settlement agreement relating to participating cigarette manufacturers and cigarette manufacturers placing funds into an escrow account.

SECTION 5. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may revoke or suspend the license issued in accordance with KRS 138.195 of any licensee and impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes involved or five thousand dollars (\$5,000) upon finding a violation by the licensee of the provisions of Section 3 or 4 of this Act.

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this

Commonwealth in violation of the provisions of Section 3 or 4 of this Act shall be treated as contraband under KRS 138.165 and be subject to seizure and forfeiture. Notwithstanding the provisions of KRS 138.165, all cigarettes seized and forfeited shall be destroyed. Cigarettes shall be treated as contraband whether the violation of the provisions of Section 3 or 4 of this Act is knowing or otherwise.

SECTION 6. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

For the purposes of KRS 365.340, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as or is confusingly similar to any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary business channels of trade.

SECTION 7. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

A violation of the provisions of Section 3 or 4 of this Act shall constitute an unlawful trade practice as provided in KRS 365.260 to 365.380 and in addition to any remedies or penalties set forth in Sections 5, 6, and 8 of this Act, shall be subject to any remedies or penalties available for a violation of the provisions of KRS 365.260 to 365.380.

SECTION 8. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

Any person that commits any of the acts prohibited by Section 3 of this Act, either knowing or having reason to know he or she is doing so, or that fails to comply with any of the requirements in Section 4 of this Act is guilty of a Class D felony and, in addition, may be subject to a fine of not more than five thousand dollars (\$5,000).

SECTION 9. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 3 and 4 of this Act shall be enforced by the commissioner, but at the request of the commissioner or the commissioner's duly authorized agent, the State Police and all local police authorities shall enforce the provisions of Sections 3 and 4 of this Act. The Attorney General has concurrent powers with prosecuting attorneys of the Commonwealth to enforce the provisions of Section 3 or 4 of this Act.
- (2) For the purpose of enforcing the provisions of Sections 3 and 4 of this Act, the commissioner and any agency that the commissioner shall have delegated enforcement responsibility under subsection (1) of this section may request information from any state or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of that state.
- (3) In addition to any other remedy provided by law, including enforcement under subsection (1) of this section, any person injured or adversely affected by a violation of Section 3 or 4 of this Act shall have a civil cause of action against the person committing the violation and shall be entitled to injunctive or equitable relief, damages, punitive damages not to exceed three (3) times the amount of actual damages sustained, costs, including reasonable attorneys' fees, or any other relief the court determines to be appropriate.

SECTION 10. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 3 and 4 of this Act shall not apply to:
 - (a) Cigarettes allowed to be imported or brought into the United States for personal use; and
 - (b) Cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. sec. 1555(b) and any implementing regulations, but the provisions of Sections 3 and 4 of this Act shall apply to any cigarettes that are brought back into the customs territory for resale within the customs territory.
- (2) The penalties provide in Sections 5, 7, 8, and 9 of this Act are in addition to any other penalties imposed under other law.

Section 11. Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of this Act take effect at the beginning of the fiscal year. An emergency is declared to exist and this Act takes effect July 1, 2000.

SCR 15, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of tobacco production or the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, such losses would cause failure of many farms and businesses, decreases in land values, the default of loans, and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems that threaten the tobacco industry and the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping to resolve these problems; and

WHEREAS, the tobacco industry and tobacco farmers remain in jeopardy because of threats to the program, increased

imports, labor shortages, marginal prices, possible increases in excise taxes, and other problems;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized to help resolve the problems facing the tobacco industry and the tobacco program.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Calendar

HB 606, HR 75, HB 322, HB 324, HB 462, HCR 8, HCR 11, HCR 22, HB 231, HB 443, HB 488, HB 542, HJR 78, SJR 17, HB 616, HB 327, HB 554, HB 625, SB 39, and HB 647 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 474, HB 540, HB 561, HJR 61, HB 231, HB 462, HB 542, HB 616, HCR 8, HCR 11, HCR 22, and HR 75** have been posted for passage in the Orders of the Day for February 18, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Banking and Insurance: **HB 518**

Appropriations and Revenue: **HB 538**

Orders of the Day

HB 397, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Floor Amendment No. 4 to **HB 397**. Agreed.

Representative Webb moved the adoption of Floor Amendment No. 1 to **HB 397**. Agreed.

Representative Bruce moved that **HB 397**, as amended, be passed.

Representative Wayne moved the adoption of Floor Amendment No. 2 to **HB 397**. Defeated.

Representative Bruce moved that **HB 397**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 7. (See February 17, 2000 roll call on **HB 397** - Appendix.)

HB 397, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 397**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 22**, **HB 257**, and **HB 342** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:30 p.m.)

Orders of the Day (Continued)

HB 475, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 475**. Agreed.

Representative Lindsay moved that **HB 475**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 17, 2000 roll call on **HB 475** - Appendix.)

HB 475, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 475**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 123, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 123** be passed.

On the roll call the vote was: **Yeas 85, Nays 6**. (See February 17, 2000 roll call on **HB 123** - Appendix.)

HB 123 was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 123** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 345 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 345** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 17, 2000 roll call on **HB 345** - Appendix.)

HB 345 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 345** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 515 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 515** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 17, 2000 roll call on **HB 515** - Appendix.)

HB 515 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 515** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 406, by way of Committee Substitute with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 406** be passed.

Representative Collins moved the adoption of Floor Amendment No. 1 to **HB 406**.

Representative Nesler moved that **HB 406**, by way of Committee Substitute, be laid on the Clerk's Desk.

Representative Gray inquired if it was correct that one General Assembly could not direct another General Assembly that will come later.

The Speaker ruled that was correct.

Representative Nesler moved that the motion that **HB 406** be laid upon the Clerk's Desk be withdrawn. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 406**. Defeated.

Representative Heleringer moved that **HB 406**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 47, Nays 50**. (See February 17, 2000 roll call on **HB 406** - Appendix.)

HB 406, by way of Committee Substitute, was defeated.

HB 507, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stewart moved the adoption of the Committee Substitute to **HB 507**. Agreed.

Representative Stewart moved that **HB 507**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 17, 2000 roll call on **HB 507** - Appendix.)

HB 507, by way of Committee Substitute, was passed and the title agreed to.

Representative Stewart moved that the vote by which **HB 507**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 610 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 610** be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See February 17, 2000 roll call on **HB 610** - Appendix.)

HB 610 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 610** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 47, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HCR 47**. Agreed.

Representative Graham moved that **HCR 47**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 17, 2000 roll call on **HCR 47** - Appendix.)

HCR 47, by way of Committee Substitute was adopted.

Representative Graham moved that the vote by which **HCR 47**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 148, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 148**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 148**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 148**. Agreed.

Representative Damron moved that **HB 148**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 4**. (See February 17, 2000 roll call on **HB 148** - Appendix.)

HB 148, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 148**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended that when the House does adjourn, it does so by voice vote. Agreed

Representative Stumbo moved that when the House adjourns it does so until 10:00 a.m., February 18, 2000. Agreed.

Representative Stumbo moved that **HB 598** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that **HB 586** be reassigned to the Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 749, by Representatives Callahan, L. Clark, Stein, Buckingham, Riggs, Marcotte, Feeley, Draud, DeWeese, Crimm, Heleringer, and Cave: AN ACT relating to property taxes.

HB 750, by Representatives Barrows, Wilkey, A. Arnold, L. Clark, Callahan, Lindsay, and Stumbo: AN ACT relating to campaign finance.

HB 751, by Representative Stein: AN ACT relating to the minimum wage.

HB 752, by Representative Ratliff: AN ACT relating to retirement.

HR 107, by Representatives Marzian, Crimm, DeWeese, Horlander, D. Butler, Bather, Wayne, Jordan, Heleringer, Johns, L. Clark, Miller, Jenkins, Burch, Riggs, Feeley, and Bratcher: A RESOLUTION adjourning the House of Representatives in honor of Jon Jory.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **HB 570**

Education: **HJR 101, SB 81**

Local Government: **HB 584, HB 650, HB 636, HB 656, HB 672, HB 688**

Motions, Petitions, and Communications (Continued)

Representative Coleman moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 63**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the participants of Youth Leadership Mercer County. The members of this esteemed body are delighted to join Representative Jack Coleman, Jr. in paying tribute to this group of young citizens for participating in this outstanding program designed to foster leadership abilities, exemplary character, model citizenship and the contribution of these attributes to the community. Further, a warm welcome is extended to the members of this leadership class as they attend today's session of the 2000 Kentucky General Assembly in the House of Representatives. Done in Frankfort, this seventeenth of February, in the year of our Lord, two thousand.

Legislative Citation No. 63 was adopted without objection.

Representative Draud moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Draud moved that his vote be changed from "yea" to "nay" on **HB 148**. Agreed.

Representative Tapp moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Tapp moved that his vote be changed from "yea" to "nay" on **HB 365**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 397**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on **HB 397**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HB 345**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 123, HB 345, HB 515, HB 507, HB 456, and HB 397**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 5 to the Committee Substitute to **HB 647**, by Representative Wayne:

On Page 1, line 4, by deleting "the voters", and inserting in lieu thereof, "a majority of those voting in the city of the first class and a majority of those voting in the remainder"; and On Page 24, line 11, after "a" by deleting the remainder of that line and inserting in lieu thereof, "majority of those voting in the city of the first class and a majority of those voting in the remainder of the county"; and

On Page 24, line 12, by deleting it in its entirety.

Floor Amendment No. 6 to the Committee Substitute to **HB 647**, by Representative Wayne:

On Page 11, Lines 21-24, by deleting them in their entirety, and

On Page 11, lines 25 and 27, by renumbering subsections "(3)" and "(4)" as subsections "(2)" and "(3)" respectively.

Floor Amendment No. 1 to **HB 238**, by Representative Burch:

On page 1, lines 18 and 19, by deleting the lines in their entirety and inserting in lieu thereof:

"(1) "Office" means the Office of Aging Services within the Cabinet for Families and Children, established under KRS Chapter 194B;";

On page 3, line 18, by deleting "board" and inserting in lieu thereof "office";

On page 4, line 4, by deleting "board" and inserting in lieu thereof "office";

On page 4, lines 12 and 13, by deleting the lines in their entirety and inserting in lieu thereof:

"(e) Documents at least one (1) year of full-time equivalent experience under the supervision of a licensed denturist; and";

On page 4, lines 18 through 20, by deleting the lines in their entirety and inserting in lieu thereof:

"(3) Until January 1, 2001, a person may be licensed as a denturist without examination, if he or she can document:

(a) A minimum of ten (10) years of full-time equivalent experience in a clinical practicum setting; or

(b) A minimum of three (3) years of full-time equivalent experience in a clinical practicum setting, with at least two (2) years of this experience being in a clinical practicum setting under the direct supervision of a licensed dentist.";

On page 5, line 1, by deleting "Kentucky Board of Dentistry" and inserting in lieu thereof: "Office of Aging Services";

On page 5, line 5, by inserting "Kentucky" after the word "the";

On page 5, line 27, by deleting "board" and inserting in lieu thereof "office";

On page 6, line 4, by deleting "board" and inserting in lieu thereof "office";

On page 6, line 12, by deleting "board" and inserting in lieu thereof "office";

On page 7, line 24, by deleting "board" and inserting in lieu thereof "office";

On page 8, line 7, by deleting "Kentucky Board of Dentistry." and inserting in lieu thereof "Office of Aging Services";

On page 8, line 13, by deleting "board" and inserting in lieu thereof "office";

On page 8, line 15, by deleting "board" and inserting in lieu thereof "office";

On page 8, line 20, by deleting "board" and inserting in lieu thereof "office";

On page 9, line 7, by deleting "board" and inserting in lieu thereof "office";

On page 9, line 12, by deleting "board" and inserting in lieu thereof "office";

On page 9, line 14, by deleting "board" and inserting in lieu thereof "office";

On page 10, line 3, by deleting "board" and inserting in lieu thereof "office"; and

On page 10, line 4, by deleting "board" and inserting in lieu thereof "office".

Floor Amendment No. 1 to the Committee Substitute to **HB 322**, by Representative Wayne:

On page 6, line 11 after "both." by inserting the following:

"Any person may be civilly liable for any consequent injury or death resulting from violations of these sections. Sovereign immunity for the postsecondary institution or its officers, agents or employees is hereby waived to the extent of the purchase of liability insurance or the establishment of a self-insurance fund by the postsecondary institution."

Floor Amendment No. 2 to the Committee Substitute to **HB 322**, by Representative Wayne:

On page 6, line 11 after "both." by inserting the following:

"Any person may be civilly liable for any consequent injury or death resulting from violations of these sections."

Floor Amendment No. 1 to the Committee Substitute to **HB 500**, by Representative Anderson:

On page 3, line 10, by deleting "or";

On page 3, line 14, by inserting before the period the following: "; or

(4) Affix any stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 to the package of any cigarettes produced by a manufacturer that is not a participating manufacturer in the Master Settlement Agreement, unless such manufacturer has:

(a) Entered into a default judgment agreement with the Attorney General that would allow the Commonwealth access to any funds placed by that manufacturer in a qualified escrow fund pending the outcome of litigation; or

(b) Waived all rights to the release of such escrow funds and any interest or appreciation thereon"

House Floor Amendment No. 1 to **SB 123**, by Representative Anderson:

On page 3, line 10, by deleting "or";

On page 3, line 14, by inserting before the period the following: "; or

(4) Affix any stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 to the package of any cigarettes produced by a manufacturer that is not a participating manufacturer in the Master Settlement Agreement, unless such manufacturer has:

(a) Entered into a default judgment agreement with the Attorney General that would allow the Commonwealth access to any funds placed by that manufacturer in a qualified escrow fund pending the outcome of litigation; or

(b) Waived all rights to the release of such escrow funds and any interest or appreciation thereon"

Floor Amendment No. 4 to the Committee Substitute to **HB 647**, by Representative Bratcher:

On Page 10, line 16, before the period by inserting:

" , except within the first one hundred eighty days (180) after the certification of the election approving a consolidated government. During this period, new cities may be incorporated within those areas of the county which were unincorporated prior to the election.

Floor Amendment No. 1 to **HB 611**, by Representative Worthington:

Delete all of the bill after the enacting clause and insert in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act:

- (1) "Master Settlement Agreement" means the settlement agreement entered into on November 23, 1998, by the Commonwealth of Kentucky and major United States tobacco product manufacturers;
- (2) "Master Settlement Agreement funding" means moneys paid to the state as a result of the Master Settlement Agreement. Payments are scheduled to come to the state on January 10 and April 15 of each calendar year through 2025 and possibly beyond.
- (3) "Phase II Agreement" means the National Tobacco Grower Settlement Trust Agreement dated July 19, 1999, entered into by tobacco states and major tobacco companies to compensate tobacco growers and quota owners for losses resulting from the Master Settlement Agreement; and
- (4) "Phase II payment program" means the twelve (12) year program for providing payments, which result from the Phase II agreement, to tobacco growers and quota owners.

Section 2. KRS 248.654 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the tobacco settlement agreement or related federal legislation. Any funds designated to the Commonwealth from the settlement agreement or related federal legislation shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco farmers and tobacco-impacted communities, ~~and~~ health-related areas, and early childhood development programs. The fund shall not lapse and interest accrued on the fund, from the first to the last payment of Master Settlement Agreement funding, shall remain in the fund for transfer to the other funds or accounts created or referenced in Sections 1 to 8 of this Act.
- (2) Moneys received in the Tobacco Settlement Agreement Fund from Master Settlement Agreement funding on or before June 30, 2000, along with accrued interest, shall be divided and allocated on the effective date of this Act as follows:
 - (a) Ten million dollars (\$10,000,000) shall be transferred to the multicounty account referred to in subsection (4)(b)1. of Section 4 of this Act.
 - (b) Fifty percent (50%) of the funds remaining in the Tobacco Settlement Agreement Fund shall be transferred to the Phase II Supplement Fund created in Section 3 of this Act; and
 - (c) Fifty percent (50%) of the funds remaining in the Tobacco Settlement Agreement Fund shall be transferred to the Research Challenge Trust Fund and the Regional University Excellence Trust Fund created in KRS 164.7911. The funds shall be transferred in the following proportions:
 1. Eighty-three and thirty-three hundredths percent (83.33%) to the Endowment Program of the Research Challenge Trust Fund of the Council on Postsecondary Education; and
 2. Sixteen and sixty-seven hundredths percent (16.67%) to the Endowment Program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education.
- (3) Moneys received in the Tobacco Settlement Agreement Fund from Master Settlement Agreement funding after June 30, 2000, along with accrued interest, shall be divided and allocated in 2000 on the effective date of this Act and each subsequent year on July 1 as follows:
 - (a) For the life of the Phase II payment program, funds shall be allocated to the Phase II Supplement Fund when needed as outlined in Section 3 of this Act;
 - (b) The remainder of the funds left, after removal of funds needed as outlined in paragraph (a) of this section, shall be allocated each year as follows:
 1. Fifty percent (50%) of the funds in the Tobacco Settlement Agreement Fund shall be transferred to a Tobacco Farmers and Tobacco Communities Fund created in Section 4 of this Act;
 2. Twenty-five (25%) percent of the funds in the Tobacco Settlement Agreement Fund shall be transferred to an Early Childhood Development Fund created in Section 7 of this Act; and

3. Twenty-five percent (25%) of the funds in the Tobacco Settlement Agreement Fund shall be transferred to a Health Care Improvement Fund created in Section 8 of this Act.
- (4) Interest earned on any moneys in any fund or account created in Sections 1 to 8 of this Act shall accrue to that fund until transferred to another fund or account created or referenced in Sections 1 to 8 of this Act.
- (5) None of the moneys left at the end of a fiscal year in any fund or account created or referenced in Sections 1 to 8 of this Act shall lapse, but shall stay with the fund or account as long as the fund or account exists, or until the moneys are transferred to another fund or account created or referenced in Sections 1 to 8 of this Act. In the case of any fund or account created in Sections 1 to 8 of this Act that is terminated with a remaining balance, the balance shall be returned to the Tobacco Settlement Agreement Fund, or to the fund or source from which it came.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) There is created in the State Treasury the "Phase II Supplement Fund".
- (2) Fifty percent (50%) of the moneys credited to the Tobacco Settlement Agreement Fund from Master Settlement Agreement funding for 1998, 1999, and through June 30, 2000, and after the ten million dollars (\$10,000,000) for the multicounty account referred to in subsection (2)(a) of Section 2 of this Act is removed, shall be transferred to the Phase II Supplement Fund. Additional funds shall be transferred to the Phase II Supplement Fund as needed from moneys credited to the Tobacco Settlement Agreement Fund after June 30, 2000.
- (3) The Phase II Supplement Fund shall be used to supplement Phase II payments to tobacco growers and quota owners so that the total amount available for payment to them each year does not fall below the total amount of Phase II funds available for distribution to them in 1999, which was one hundred fourteen million dollars (\$114,000,000). If the Phase II supplement funds, received from the Tobacco Settlement Agreement Fund from Master Settlement Agreement funding before June 30, 2000, fall below the amount needed to reach the one hundred fourteen million dollar (\$114,000,000) in any year before the end of the twelve (12) year Phase II program, procedures outlined in subsection (4) of this section shall be followed.
- (4) If the moneys received into the Phase II Supplement Fund before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar (\$114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred and fourteen million dollars (\$114,000,000) per year for each of the twelve (12) years of the Phase II funding program shall continue to be provided to the Phase II Supplement Fund from funds received in the Tobacco Settlement Agreement Fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II Supplement Fund to assure availability of the one hundred and fourteen million dollar (\$114,000,000) funding level for that year shall be taken from the Tobacco Settlement Agreement Fund before any other distributions are made. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar (\$114,000,000) level shall be returned to the Tobacco Settlement Agreement Fund.
- (5) The Tobacco Settlement Trust Corporation board created in 2000 HB 96 shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list of supplement payment recipients to the Revenue Cabinet rather than to the trustee of the National Tobacco Grower Settlement Trust. The Department of Revenue shall process the information and issue the checks at no charge to the Phase II supplement fund. The Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota holders.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) There is created in the State Treasury the "Tobacco Farmers and Tobacco Communities Fund" which shall receive funds as outlined in Section 2(3)(b)1. of this Act. One-half of one percent (0.5%) of the fund shall be provided to the Kentucky Department of Agriculture for assistance provided by the department to the local Access to Capital boards as outlined in subsection (2) of this section, and one and one-half percent (1.5%) shall be provided to the County Extension Service Offices for assistance provided by the offices to the local Access to Capital boards as outlined in subsection (3)(c) of this section. The funds for the County Extension Service Offices shall be based on the distributions to the individual counties as set out in subsection (4)(b) of this section and shall be allocated directly to each County Extension Service Office.
- (2) The Tobacco Farmer and Tobacco Community Assistance Office is created in the Kentucky Department of Agriculture. The office shall provide assistance to the local Access to Capital boards, authorized in subsection (3) of this section, as the boards carry out their duties as outlined in subsection (3) of this section. The duties of the office shall include but not be limited to the following:
- (a) Designing an application form for those who wish to apply to the local Access to Capital boards for funds available under subsection (4)(b) of this section;
- (b) Developing criteria and procedures according to Kentucky statutes or administrative regulations for the local Access to Capital boards to use in evaluation and processing applications; and

- (c) Providing technical support, training, and assistance to the local Access to Capital boards; and
 - (d) Submitting the determinations on applications made by local Access to Capital boards to the Master Settlement Agreement Oversight Subcommittee created in Section 6 of this Act.
 - (3) A local Access to Capital Board shall be established in each tobacco producing county.
 - (a) The local board shall receive applications and determine which applicants shall receive funding, referred to in subsection (4)(a) of this section, according to terms set out in subsection (5) of this section. The local board shall forward these determinations to the Tobacco Farmer and Tobacco Community Assistance Office in the Department of Agriculture which shall submit the determinations on behalf of the local boards to the Master Settlement Agreement Oversight Subcommittee created in Section 6 of this Act.
 - (b) Membership on the local Access to Capital boards shall include:
 - 1. One (1) member selected by the county Farm Service Agency board that serves that county;
 - 2. One (1) member selected by the Natural Resources Conservation Service board that serves that county;
 - 3. One (1) member selected by the Cooperative Extension Service board that serves that county; and
 - 4. One (1) member, who is a young farmer between the ages of twenty-one (21) and thirty-five (35) years of age, selected by the members in subparagraphs 1. to 3. of this paragraph.
 - (c) Members shall initially be appointed by September 1, 2000. These members shall serve until June 30, 2002. On July 1, 2002 and every two (2) years thereafter, members shall be appointed for two (2) year terms.
 - (d) The Access to Capital Board shall be attached to the County Cooperative Extension Service Office for administrative support.
 - (e) No existing member, or his or her family member, of the local Farm Service Agency board, the local Natural Resources Conservation Service board, or the local county Cooperative Extension Service board involved in the selection of local Access to Capital board members shall be eligible for service on the local Access to Capital board.
 - (4) The moneys received in the Tobacco Farmers and Tobacco Communities Fund as outlined in Section 2(3)(b)1. of this Act, less the amounts for county Extension Service offices and the Department of Agriculture outlined in Section 4(1) of this Act, shall be distributed to accounts for each of the tobacco-producing counties or to a multicounty project account within twenty (20) days of receipt of moneys in the Tobacco Farmers and Tobacco Community Fund each year and shall be divided as follows:
 - (a) The first fifty million dollars (\$50,000,000), or the total amount coming into the Tobacco Farmers and Tobacco Communities Fund during the year if it is less than fifty million dollars (\$50,000,000), shall go to accounts created for each tobacco-producing county based on the following weighed factors:
 - 1. Fifty percent (50%) weight to the county's percentage of state tobacco allotment based on 1999 data;
 - 2. Twenty-five percent (25%) weight to the county's number of farms with tobacco quota in the county as a percentage of farms with tobacco quotas statewide, based on 1999 data; and
 - 3. Twenty-five percent (25%) weight to the economic impact index for each county, which shall be calculated in the following manner:
 - a. The tobacco income for each county (burly tobacco production times average burley market price) divided by the total personal income for each county. The data used shall reflect the year most recently available for total personal income.
 - b. The percentage derived in subdivision a. of this subparagraph (tobacco income as a percentage of total personal income for each county) shall then be summed across all counties.
 - c. The economic impact index amount shall be each county's tobacco income as a percentage of total personal income, divided by the aggregate percentage stated in subdivision b. of this subparagraph.
- Repaid loans and interest shall be returned to the appropriate county's account.
 - (b) 1. Any amount over the fifty million dollars (\$50,000,000) referred to in paragraph (a) of this subsection shall go to an account for multicounty projects in tobacco-producing counties. When the multicounty projects account reaches twenty million dollars (\$20,000,000), it shall be capped. Excess moneys shall go to the tobacco producing counties' accounts in paragraph (a) of this subsection until the multicounty projects account falls below the cap. The funds in the multicounty projects account shall be utilized for a fifty percent (50%) match with funds from two (2) or more tobacco-producing counties.
 - 2. Multicounty projects shall be public-private partnerships. All operating funds for the projects shall be provided by private parties. Assistance in determining the use of the funds referred to in subparagraph 1. of this paragraph and assistance in formulating projects and administering the project funds shall be provided by the Agricultural Diversification and Development Council created in KRS 248.650.

(5) Use and restrictions on the funds in tobacco-producing counties' accounts described in subsection (4)(a) of this section shall include the following:

(a) Funds may be used for deferred or no or low-interest venture capital loans to enhance tobacco farms' revenues by initiating:

1. Current farming techniques or practices improvements; and
2. New farming ventures on the farm.

Terms of the loans shall include a limit on deferral of payment of interest or principal to five (5) years, and a limit on low interest loans of zero percent (0.0%) to four percent (4%).

(b) Funds may be used as matching funds for multicounty project grants described in subsection (4)(b) of this section;

(c) Funds may be used as grants for local economic development projects in tobacco-producing counties;

(d) Funds may be used as grants of up to twenty-five percent (25%) of a tobacco-producing county's account for the Purchase of Agricultural Conservation Easement Program on tobacco farms when matched fifty percent (50%) by individuals, public or private organizations, or government entities;

(e) Funds may be used as grants of up to ten percent (10%) of the fund for water line extension to tobacco farms or for a fifty percent (50%) match for water improvements on tobacco farms; and

(f) Eligibility for funds in subsection (5)(a), (d), and (e) of this section shall require that:

1. Tobacco farmers shall be given priority;
2. Applicants shall have sufficient equity to assure reasonable chance of success of the action proposed for funding;
3. Small farmers shall have equal access to the funds as large farmers; and
4. No individual farmer shall receive more than five percent (5%) of the funds available to a tobacco-producing county's account, under subsection (4)(a) of this section, in any year.

(6) Funds available under subsection (4) of this section shall not be used for operating expenses.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Those agencies and educational institutions which receive agriculture related funding under the provisions of Sections 2 to 4 of this Act, and those which receive state funding relating to assisting agriculture and farmers in this state shall focus and direct their efforts to revitalization and diversification on tobacco farms.

(2) Each agency or institution in subsection (1) shall issue a semiannual report on the details of the efforts it is carrying out to revitalize and diversify tobacco farms. The report shall include details of successes that have been achieved. The report shall be provided to the Master Settlement Agreement Oversight Subcommittee created in Section 6 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Master Settlement Agreement Oversight Subcommittee. The subcommittee shall be composed of seven (7) members and shall include four (4) members of the House of Representatives and three (3) members of the Senate. The subcommittee members shall include majority and minority members in numbers as nearly proportional to their membership in the House of Representatives and the Senate as mathematically possible. The Legislative Research Commission shall appoint, from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years. The members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.

(2) The purpose of the subcommittee shall be to review all proposed expenditures of Master Settlement Agreement funds to insure compliance with state statutes and legislative intent.

(3) The subcommittee shall meet monthly, and may meet more frequently when necessary, at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3).

(4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).

(5) A report on each proposed expenditure using Master Settlement Agreement funds over two thousand dollars (\$2,000) shall be provided by the entity proposing the expenditure to the subcommittee on a monthly basis. An annual report of all Master Settlement Agreement funding expenditures over two thousand dollars (\$2,000) shall be provided by such entities at the end of each fiscal year beginning in 2001.

(6) In reviewing proposed expenditures of Master Settlement Agreement funds, the subcommittee shall determine whether the proposed expenditure has met all the relevant requirements of:

- (a) Criteria for various types of expenditures using Master Settlement Agreement funding as set out in various statutes and administrative regulations;
- (b) Compliance with the legislative intent of Sections 1 to 8 this Act; and
- (c) Any other statutes relevant to the committee's oversight.
- (7) If the subcommittee determines that any of the requirements in subsection (6) of this section have not been met, the committee may, by majority vote, hold the expenditure in abeyance. This expenditure shall not be carried out until it is made to comply with the requirements of subsection (6) of this subsection or the expenditure is approved by the General Assembly at its next regular session.
- (8) If the applicant or the party proposing the expenditure does not agree with the subcommittee action and wishes to pursue it further, the Master Settlement Agreement Oversight Subcommittee shall submit the expenditure proposal to the General Assembly at its next regular session for approval or denial.
- (9) The Master Settlement Agreement Oversight Subcommittee shall compile an annual report for each fiscal year summarizing expenditure and funding activities involving Master Settlement Agreement funding.

SECTION 7. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

There is created in the State Treasury the "Early Childhood Development Fund" which shall receive funds as specified in Section 2(2)(b)2. of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

There is created in the State Treasury the "Health Care Improvement Fund" which shall receive funds as specified in. Section 2(2)(b)3. of this Act. The fund shall be divided as follows:

- (1) Twenty percent (20%) to the Lung Cancer Research Fund which is hereby created;
- (2) Ten percent (10%) to the Smoking Cessation and Substance Abuse Prevention Fund which is hereby created;
and
- (3) Seventy percent (70%) to the Kentucky Access Fund which is hereby created.

Section 9. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 7 to the Committee Substitute to **HB 647**, by Representative Bather:

On Page 1, line 4, by deleting "the voters", and inserting in lieu thereof, "a simple majority vote of those voting in the city of the first class and a simple majority vote of those voting in the remainder"; and

On Page 24, line 11, after "a" by deleting the remainder of that line and inserting in lieu thereof, "simple majority vote of those voting in the city of the first class and a simple majority vote of those voting in the remainder of the county"; and

On Page 24, line 12, by deleting it in its entirety.

Floor Amendment No. 8 to the Committee Substitute to **HB 647**, by Representative Bather:

On Page 11, lines 8-13, by deleting them in their entirety, and inserting in lieu thereof,

- "(1) The territory of a consolidated local government shall be divided into service districts.
- (2) Each service district shall constitute a separate tax district within which the consolidated local government shall levy and collect taxes in accordance with the kind, type, level and character of the services provided by the consolidated local government in each of these districts.
- (3) The legislative body of the consolidated local government may abolish or alter existing districts, or create new districts, except for that area which previously existed as a city of the first class.
- (4) The area which previously existed as a city of the first class shall be created and maintained as a singular urban service district. The level of services provided in this area and the funding for these services shall be maintained at a level not less than those services provided upon the effective date of this Act and may only be altered or abolished upon a majority vote of the registered voters residing in the district at a special or regular election.
- (5) Notwithstanding any contrary provision of the comprehensive plan of a consolidated local government, the consolidated local government may establish partial urban services districts into which one (1) or more services not provided within the full urban services district shall be expanded or extended, and may establish urban services districts into which all of the services provided within the full urban services district shall be expanded or extended along with one (1) or more other services not provided within the full urban services district.
- (6) All taxing and service districts in existence upon the effective date of this Act shall continue in existence until

dissolved in the manner prescribed by law and shall continue to exercise all the powers and functions permitted by the Constitution and the laws of the Commonwealth. Such districts shall take those steps necessary to comply with the requirements of this section to provide the levels of services mandated."

Floor Amendment No. 9 to the Committee Substitute to **HB 647**, by Representative Bather:

On Page 11, Lines 21-24, by deleting them in their entirety, and

On Page 11, lines 25 and 27, by renumbering subsections "(3)" and "(4)" as subsections "(2)" and "(3)" respectively.

Floor Amendment No. 10 to the Committee Substitute to **HB 647**, by Representative Bather:

On Page 10, line 16, before the period by inserting:

" , except within the first year after the certification of the election approving a consolidated government. During this period, new cities may be incorporated within that area which was contained within the jurisdictional boundaries of the city of the first class prior to the election. An incorporation shall be accomplished as provided by KRS 81.050 and 81.060."

Floor Amendment No. 1 to **HB 542**, by Representative Moberly:

On page 1, line 25, by deleting the words "five hundred (500)", and inserting in lieu thereof "nine hundred (900)".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 148: Representatives Hoffman, Worthington
HB 258: Representative Damron
HB 494: Representative Westrom
HB 521: Representative Damron
HB 627: Representative Hoffman
HB 677: Representatives Crimm, Horlander, Nesler, Weaver
HB 714: Representatives Colter, Jenkins, Marzian, Palumbo, Stein
HB 732: Representative Bratcher
HB 733: Representative Ausmus
HB 744: Representative Crenshaw
HB 747: Representative Damron
HR 105: Representatives Bather, L. Clark, Gray, Jenkins, Johns

The following members filed requests to have their names withdrawn as co-sponsors of Bills under rules previously suspended:

HB 485: Representative Gooch
HB 490: Representative Palumbo

Announcements

The following meetings were announced:

Appropriations and Revenue, February 17, 2000, upon adjournment, Room 131

Budget Review Subcommittee on Human Services, February 22, 2000, noon, Room 111

Natural Resources and Environment, February 17, 2000, upon adjournment

The following meeting was canceled:

Budget Review Subcommittee on Human Services, February 17, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., February 18, 2000.

The motion that the House adjourn until 10:00 a.m., February 18, 2000, was adopted by voice vote.

FEBRUARY 18, 2000
THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Tim H. Mills, Bethlehem Baptist Church of Dorton Branch, Pineville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Crenshaw, Polston, and Walton.

Senate Message

Announcing passage of **SB 91, SB 98, SB 100, SB 116, SB 130, SB 132, SB 166, SB 174, SB 190, SB 202, SB 212, SCR 39, HB 18, HB 81, HB 84, HB 166, and HB 168.** (Time: 10:12 a.m.)

Message in regard to **HB 69**: The Senate has passed **HB 69** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 17, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

HB 22, HB 257, and HB 342 delivered to the Senate and signed by the President. Delivered to the Governor on February 18, 2000, at 9:31 a.m.

Introduction of Bills and Resolutions

HB 753, by Representative Stacy: AN ACT relating to boarding homes.

HCR 108, by Representatives Ratliff, Napier, Branham, Ausmus, T. Turner, Cornett, Anderson, Siler, Yonts, Allen, Gooch, Childers, Ballard, Crall, J. Arnold, Bruce, Colter, Vincent, Baugh, Rader, Lindsay, Treesh, Stumbo, Adkins, Stacy, Alexander, Webb, Stewart, and J. Turner: A RESOLUTION urging the President of the United States and the Congress to support Kentucky Senator Jim Bunning in his effort to direct additional federal cleanup funding to Kentucky and obtain passage of the Clean the Land and Environment of Appalachia Now (CLEAN) Act.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 746, HB 747, HB 749**

Banking and Insurance: **SB 169**

Education: **SB 125**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 740, HB 745, HB 750**

Labor and Industry: **HB 718, HB 743, HB 751**

Local Government: **HB 742, HB 744, SB 71, SB 72, SB 101, SB 102, SB 113**

State Government: **HB 741, HB 748, HB 752**

House Floor: **HR 107**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 739, SB 1, SB 56, SB 58, HB 548, HB 519**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 158** and **HB 543**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 158, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.810 is amended to read as follows:

- (1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the Revenue Cabinet. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.
- (2)
 - (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by ~~any~~the Railroad retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.
 - (b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.
 - (c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period ~~through December 31 of the year in which application is made~~.
 - (d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.
 - (e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit, but the sixty-five hundred dollars (\$6,500) exemption shall be construed to mean sixty-five hundred dollars (\$6,500) in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.
 - (f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.
 - (g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.
 - (h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.
- (3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.
- (4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.
 - (a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total

disability classification~~[or]~~ at the end of the taxation period for which the homestead exemption has been granted. **In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.**

- (b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.
- (c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.
- (d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

(5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

Section 2. This Act shall apply for tax assessments made on or after January 1, 2001.

HB 543, AN ACT relating to the Kentucky River Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The Kentucky River Authority is created to perform the essential governmental functions and public purposes set out in KRS 151.700 to 151.730. The authority shall be a public corporation and independent governmental agency and instrumentality of the state. The responsibilities of the authority shall be managed and implemented by a board of directors as set out in Section 2 of this Act.

Section 2. KRS 151.710 is amended to read as follows:

- (1) The Governor shall appoint members to the Kentucky River Authority, created to carry out the essential public purpose of protecting the health and welfare of the people of the Commonwealth as declared in KRS 151.700.
- (2) The Governor shall appoint the secretary of the Natural Resources and Environmental Protection Cabinet and ten (10) other persons as the members of the authority. The secretary may designate an alternate. Of the ten (10) persons, one (1) shall be a registered engineer, one (1) an expert in water quality, one (1) a mayor, and one (1) a county judge/executive. The mayor and the county judge/executive shall be officers from counties which obtain the major portion of their water supply from the Kentucky River. Five (5) members shall reside in a county adjacent to the main stem of the Kentucky River, one (1) of the five (5) members residing in counties adjacent to locks and dams one (1) through four (4); and one (1) member shall reside in a county adjacent to either the North Fork, Middle Fork, or South Fork of the Kentucky River. **Of the eleven (11) members only the secretary or the secretary's alternate may be an employee of the cabinet.**
- (3) Of the ten (10) members first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, three (3) for terms of three (3) years, and three (3) for terms of four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the authority for a term of four (4) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.
- (4) Each member shall receive as compensation one hundred dollars (\$100) per day for attending a meeting of the authority.
- (5) Any member who misses three (3) consecutive meetings of the authority shall be deemed to have vacated the office. The authority shall declare the office vacant and the office shall be filled as provided by subsections (2) and (3) of this section.
- (6) The authority annually shall elect one (1) of its members as chairman. A quorum for the transaction of business shall be six (6) members, and a majority of the members present at a meeting may take action on any matter legally before the authority.
- (7) Members shall be paid their necessary travel expenses incurred in attending meetings and in the performance of their official duties, in addition to the per diem compensation of one hundred dollars (\$100).
- (8) The authority shall meet at least quarterly, and may meet upon the call of the chairman.
- (9) The chairman shall be paid necessary travel expenses and a one hundred dollar (\$100) per diem compensation for conducting official business of the authority.
- (10) The authority shall be attached for administrative purposes to the Natural Resources and Environmental Protection Cabinet, and the cabinet shall provide the necessary personnel to provide administrative services for the authority.
- (11) The necessary travel expenses and per diem compensation of the members of the authority in attending meetings and in the performance of their official duties shall be paid by the authority.

- (12) The authority shall promulgate administrative regulations necessary to carry out its duties, and shall report annually to the Governor and the Legislative Research Commission.

Section 3. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

- (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;
- (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;
- (3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;
- (4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;
- (5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;
- (6) Issue revenue bonds in accordance with KRS 151.730;
- (7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;
- (8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;
- (9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;
- (10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section *and sections 4 and 5 of this Act*, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;
- (11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority shall develop a unified long-range water resource plan for the basin. *The unified long-range water resource plan shall be implemented over short and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years.* The authority shall conduct a public hearing on the plan *prior to its adoption and amend the plan as appropriate based on the comments received*, and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. ~~The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason shown.~~ A drought response plan for the basin shall be developed by the authority, and this plan shall be implemented for the basin upon the direction of the authority;
- (12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;
- (13) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;
- (14) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;
- (15) Coordinate the Kentucky River basin water resources activities among state agencies;
- (16) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;
- (17) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;
- (18) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and
- (19) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative

regulation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky River Authority shall undertake a continuing study of the water available within the Kentucky River and the water needs within the Kentucky River Basin. The study shall focus on necessary capital construction to maintain or increase water availability within the Kentucky River, including bringing existing facilities up to acceptable standards or replacing existing facilities where required.
- (2) The Kentucky River Authority shall on a biennial basis provide the General Assembly with an estimate of the cost of maintaining or increasing the water available within the Kentucky River in order to meet the water supply needs of the citizens within the Kentucky River Basin.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) Beginning with the 2000-2001 biennium and each biennium thereafter, the authority shall submit to the General Assembly a six (6) year program of preconstruction and construction activities to maintain or increase water available within the Kentucky River. The program shall include a two (2) year construction component that shall be implemented as authorized by the General Assembly in the authority's biennial budget and a four (4) year preconstruction component that shall advise the General Assembly of the consistency of ongoing and long-term planning with the construction activities funded by the General Assembly.
- (2) The program shall be developed by considering, at a minimum, the following factors:
 - (a) The population to be served by the available water;
 - (b) The social, economic, and environmental impact of program elements;
 - (c) The condition of existing facilities critical to water availability;
 - (d) The cost of maintaining, improving, replacing, or removing facilities; and
 - (e) The dependence of communities within the river basin on specific Kentucky River dam pools or other sources of water.
- (3) The program shall include a four (4) year planning document setting out preconstruction activities that include planning and design and an environmental analysis of projects to maintain or increase water available within the Kentucky River and geotechnical and stability evaluations of the Kentucky River locks and dams.
- (4) The authority shall provide to the General Assembly a long-range planning document consisting of twenty (20) years for water supply projects being considered by the authority.
- (5) The authority shall be responsible for the execution of each biennial program as approved and authorized in the budget by the General Assembly and shall report any anticipated deviations from the authorized construction funding or preconstruction program to the Interim Joint Committee on Appropriations and Revenue.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

Six (6) months prior to the convening of each regular session of the General Assembly, the authority shall provide the projected biennial construction and preconstruction program to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue.

Section 7. KRS 151.723 is amended to read as follows:

- (1) The rate of the water use fees collected by the authority shall be set for each year of the biennium based upon a total amount of funds necessary to carry out only those functions, projects, and expenses authorized by the General Assembly in the authority's biennial budget.
- (2) At the time the authority submits its budget to the Governor's Office of Policy and Management, it shall certify to the General Assembly ~~and the secretary of the Revenue Cabinet~~ the total amount of water use reported for the preceding biennium by users subject to the water use fees. At least thirty (30) days prior to the effective date of the authority's budget, the ~~authority~~~~secretary of the Revenue Cabinet~~ shall establish a rate for each water use fee based upon an amount of water use projected for each year of the biennium from the amount reported, calculated to generate the amount of funds necessary to carry out the functions, projects, and expenses which have been authorized by the General Assembly to be funded by the fees. The rate shall be an amount for each one thousand (1,000) gallons of water use and shall be effective for at least one (1) year.
- (3) The authority shall define by administrative regulation those uses of the Kentucky River or the waters of the Kentucky River basin subject to a water use fee. Water use fees shall not apply to facilities using water for agricultural purposes. The authority shall collect the fees on a quarterly basis and pay the collected fees into the State Treasury to the credit of a restricted fund for use by the authority.

The Committee Substitute No. 1 to HB 543 is as follows:

HB 543, AN ACT relating to the Kentucky River Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) Kentucky Pollution Abatement Authority;
- (3) Kentucky Savings Bond Authority;
- (4) County Officials Compensation Board;
- (5) Kentucky Turnpike Authority;
- (6) State Investment Commission;
- (7) Kentucky Housing Corporation; ~~{and}~~
- (8) Governmental Services Center; and
- (9) Kentucky River Authority.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The Kentucky River Authority is created to perform the essential governmental functions and public purposes set out in KRS 151.700 to 151.730. The authority shall be a public corporation and independent governmental agency and instrumentality of the state. The responsibilities of the authority shall be managed and implemented by a board of directors as set out in Section 3 of this Act.

Section 3. KRS 151.710 is amended to read as follows:

- (1) The Governor shall appoint members to the Kentucky River Authority, created to carry out the essential public purpose of protecting the health and welfare of the people of the Commonwealth as declared in KRS 151.700.
- (2) The Governor shall appoint the ~~secretaries~~~~{secretary}~~ of the Finance and Administration Cabinet and the Natural Resources and Environmental Protection Cabinet and ten (10) other persons as the members of the authority. The ~~secretaries~~~~{secretary}~~ may designate alternates~~{an alternate}~~. Of the ten (10) persons, one (1) shall be a registered engineer, one (1) an expert in water quality, one (1) a mayor, and one (1) a county judge/executive. The mayor and the county judge/executive shall be officers from counties which obtain the major portion of their water supply from the Kentucky River. Five (5) members shall reside in a county adjacent to the main stem of the Kentucky River, one (1) of the five (5) members residing in counties adjacent to locks and dams one (1) through four (4); and one (1) member shall reside in a county adjacent to either the North Fork, Middle Fork, or South Fork of the Kentucky River. Of the twelve (12) members only one (1) may be an employee of the Natural Resources and Environmental Protection Cabinet.
- (3) Of the ten (10) members first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, three (3) for terms of three (3) years, and three (3) for terms of four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the authority for a term of four (4) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.
- (4) Each member shall receive as compensation one hundred dollars (\$100) per day for attending a meeting of the authority.
- (5) Any member who misses three (3) consecutive meetings of the authority shall be deemed to have vacated the office. The authority shall declare the office vacant and the office shall be filled as provided by subsections (2) and (3) of this section.
- (6) The authority annually shall elect one (1) of its members as chairman. A quorum for the transaction of business shall be six (6) members, and a majority of the members present at a meeting may take action on any matter legally before the authority.
- (7) Members shall be paid their necessary travel expenses incurred in attending meetings and in the performance of their official duties, in addition to the per diem compensation of one hundred dollars (\$100).
- (8) The authority shall meet at least quarterly, and may meet upon the call of the chairman.
- (9) The chairman shall be paid necessary travel expenses and a one hundred dollar (\$100) per diem compensation for conducting official business of the authority.
- (10) The authority shall be attached for administrative purposes to the Finance and Administration~~Natural Resources and Environmental Protection~~ Cabinet, and the cabinet shall provide the necessary personnel to provide administrative services for the authority..
- (11) The necessary travel expenses and per diem compensation of the members of the authority in attending meetings and in the performance of their official duties shall be paid by the authority.
- (12) The authority shall promulgate administrative regulations necessary to carry out its duties, and shall report annually to the Governor and the Legislative Research Commission.

Section 4. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

- (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;
- (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;
- (3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;
- (4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;
- (5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;
- (6) Issue revenue bonds in accordance with KRS 151.730;
- (7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;
- (8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;
- (9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;
- (10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section *and Sections 5 and 6 of this Act*, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;
- (11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority shall develop a unified long-range water resource plan for the basin. *The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years.* The authority shall conduct a public hearing on the plan *prior to its adoption and amend the plan as appropriate based on the comments received,* and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. ~~The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason shown.~~ A drought response plan for the basin shall be developed by the authority, and this plan shall be implemented for the basin upon the direction of the authority;
- (12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;
- (13) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;
- (14) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;
- (15) Coordinate the Kentucky River basin water resources activities among state agencies;
- (16) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;
- (17) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;
- (18) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and
- (19) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky River Authority shall undertake a continuing study of the water available within the Kentucky River and the water needs within the Kentucky River Basin. The study shall focus on necessary capital construction to maintain or increase water availability within the Kentucky River, including bringing existing facilities up to acceptable standards or replacing existing facilities where required.
- (2) The Kentucky River Authority shall on a biennial basis provide the General Assembly with an estimate of the cost of maintaining or increasing the water available within the Kentucky River in order to meet the water supply needs of the citizens within the Kentucky River Basin.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) Beginning with the 2000-2002 biennium and each biennium thereafter, the authority shall submit to the General Assembly a six (6) year program of preconstruction and construction activities to maintain or increase water available within the Kentucky River. The program shall include a two (2) year construction component that shall be implemented as authorized by the General Assembly in the authority's biennial budget and a four (4) year preconstruction component that shall advise the General Assembly of the consistency of ongoing and long-term planning with the construction activities funded by the General Assembly.
- (2) The program shall be developed by considering, at a minimum, the following factors:
 - (a) The population to be served by the available water;
 - (b) The social, economic, and environmental impact of program elements;
 - (c) The condition of existing facilities critical to water availability;
 - (d) The cost of maintaining, improving, replacing, or removing facilities; and
 - (e) The dependence of communities within the river basin on specific Kentucky River dam pools or other sources of water.
- (3) The program shall include a four (4) year planning document setting out preconstruction activities that include planning and design and an environmental analysis of projects to maintain or increase water available within the Kentucky River and geotechnical and stability evaluations of the Kentucky River locks and dams.
- (4) The authority shall provide to the General Assembly a long-range planning document consisting of twenty (20) years for water supply projects being considered by the authority.
- (5) The authority shall be responsible for the execution of each six (6) year program as approved and authorized in the budget by the General Assembly and shall report any anticipated deviations from the authorized construction funding or preconstruction program to the Interim Joint Committee on Appropriations and Revenue.

SECTION 7. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

By July 1 of each year preceding the convening of the General Assembly in regular session, the authority shall provide the projected six (6) year construction and preconstruction program to the Interim Joint Committee on Agriculture and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue.

Section 8. KRS 151.723 is amended to read as follows:

- (1) The rate of the water use fees collected by the authority shall be set for each year of the biennium based upon a total amount of funds necessary to carry out only those functions, projects, and expenses authorized by the General Assembly in the authority's biennial budget.
- (2) At the time the authority submits its budget to the Governor's Office of Policy and Management, it shall certify to the General Assembly ~~and the secretary of the Revenue Cabinet~~ the total amount of water use reported for the preceding biennium by users subject to the water use fees. At least thirty (30) days prior to the effective date of the authority's budget, the ~~authority~~~~secretary of the Revenue Cabinet~~ shall establish a rate for each water use fee based upon an amount of water use projected for each year of the biennium from the amount reported, calculated to generate the amount of funds necessary to carry out the functions, projects, and expenses which have been authorized by the General Assembly to be funded by the fees. The rate shall be an amount for each one thousand (1,000) gallons of water use and shall be effective for at least one (1) year.
- (3) The authority shall define by administrative regulation those uses of the Kentucky River or the waters of the Kentucky River basin subject to a water use fee. Water use fees shall not apply to facilities using water for agricultural purposes. The authority shall collect the fees on a quarterly basis and pay the collected fees into the State Treasury to the credit of a restricted fund for use by the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

At the time a water utility requests a state agency to take action required to allow the transfer between water utilities of drinking water within or into the watershed of the Kentucky River basin, the water utility shall notify the authority of the request that has been made for state agency action. The authority shall review the request and comment on the requested transfer to the state agency within the time period for the review by the state agency.

Section 10. No later than September 30, 2000, the authority shall report to the Interim Joint Committee on Agriculture

and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue on implementation of those plan elements authorized during the 2000 Regular Session of the General Assembly.

The Committee on Appropriations and Revenue reported **HB 4**, with Committee Substitute attached thereto, **HB 8** with Committee Amendment attached thereto, and **HB 180**, with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 8** is as follows:

On page 1, lines 18 and 19, by deleting all the new language on lines 18 and 19; and

On page 1, line 19, by removing the opening bracket "[" and by removing the strikethroughs from the existing language on line 19; and

On page 1, line 20, by removing the strikethroughs from "\$0.02) per pound for each pound of excess load when the excess is", and by inserting after the word "is" the following new language "five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than one thousand dollars (\$1,000)", and by inserting an opening bracket "[" before the word "two"; and

Beginning on page 6, line 11, and continuing through page 7, line 5, by deleting Section 2 in its entirety; and

On page 7, line 6, by renumbering "Section 3" as "Section 2"; and

On page 7, lines 10 and 11, by deleting lines 10 and 11 in their entirety.

The Committee Substitute No. 2 to **HB 180** is as follows:

HB 180, AN ACT relating to postsecondary education prepaid tuition and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

- (1) "Academic year" means the time period specified by each participating institution;*
- (2) "Board" means the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund;*
- (3) "Fund" means the prepaid tuition payment fund created in Section 2 of this Act and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund";*
- (4) "Office" means the Tuition Account Program Office in the Office of the State Treasurer that is responsible for administering the prepaid tuition accounts;*
- (5) "Participating institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, all of which are required to participate, and any Kentucky private college or university that is accredited by a national or regional accrediting agency, recognized by the United States Department of Education, that voluntarily requests to participate and is accepted for participation in the program by the board of directors created in Section 3 of this Act;*
- (6) "Prepaid tuition" means the amount of tuition estimated by the board for the standard tuition plans and for each participating institution for the academic year specified in the prepaid tuition contract;*
- (7) "Prepaid tuition academic year conversion" means the difference between the amount of prepaid tuition required in the original prepaid tuition contract and the amount of prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year;*
- (8) "Prepaid tuition academic year conversion shortfall" means the amount by which the prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year exceeds the amount of prepaid tuition required in the original prepaid tuition contract;*
- (9) "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;*
- (10) "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any participating institution as provided in Sections 1 to 7 of this Act;*
- (11) "Prepaid tuition conversion" means the difference between the prepaid tuition of a standard plan and the prepaid tuition at a participating institution or the difference between the prepaid tuition at one participating institution and the prepaid tuition at another participating institution;*
- (12) "Prepaid tuition conversion shortfall" means the amount by which the prepaid tuition at a participating institution exceeds the amount of the prepaid tuition of a standard plan or the amount by which the prepaid tuition at a participating institution exceeds the amount of the prepaid tuition at another participating institution;*

- (13) "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;
- (14) "Qualified beneficiary" means any resident of Kentucky at the time a purchaser enters into a prepaid tuition contract on behalf of the resident or any nonresident who intends to attend a participating institution in Kentucky;
- (15) "Standard tuition plan" means the average of the estimated tuition for the:
- (a) Commonwealth's community colleges;
 - (b) Technical colleges;
 - (c) Four (4) year universities; or
 - (d) Private colleges or universities;
- (16) "Tuition" means the actual charges and all mandatory fees required as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend a participating institution. Tuition for a private college or university is calculated on the current year tuition rate, increased by the same percentage that the University of Kentucky tuition is increased on a per year basis;
- (17) "Tuition credit" means the discounted net present value of a unit equal to one twenty-fourth (1/24) of the prepaid tuition; and
- (18) "Tuition shortfall" means the amount by which tuition exceeds the prepaid tuition adjusted in proportion to the number of tuition credits purchased.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund", to be governed by a board of directors and administered by the Tuition Account Program Office in the Office of the State Treasurer. The fund shall consist of payments received from prepaid tuition contracts under Sections 1 to 7 of this Act. Income earned from the investment of the fund shall remain in the fund and be credited to it. The fund shall not constitute an investment company as defined in KRS 291.010.
- (2) The purposes of the fund are:
- (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
 - (b) To provide students and their parents economic protection against rising tuition costs.
- (3) The office and the facilities of the State Treasurer shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments. The office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority, shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.
- (4) Assets of the fund shall constitute public funds of the Commonwealth and may be invested in any instrument, obligation, security, or property that constitutes legal investments for the investment of public funds in the Commonwealth that are deemed most appropriate by the board and may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
- (5) The fund, through the State Treasurer, may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board.
- (6) There is created a separate account within the State Treasurer's office to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the Commonwealth postsecondary education prepaid tuition trust fund. Funds may be transferred from the property abandoned under KRS Chapter 393 to the administrative account and shall be repaid to the abandoned property fund no later than three (3) years after the transfer. The board may establish administrative fees for handling prepaid tuition contracts and deposit the money in this account.
- (7) Four (4) years after the effective date of this Act, the administration of the fund shall be transferred from the Office of the State Treasurer to the Kentucky Higher Education Assistance Authority unless the General Assembly shall decide that the administration of the fund shall remain in the Office of the State Treasurer.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) The fund shall be governed by an eleven (11) member board of directors. The board shall have five (5) ex officio voting members including the State Treasurer, the president of the Council on Postsecondary Education or designee, the secretary of the Finance Cabinet or designee, the secretary of the Revenue Cabinet or designee, the chair of the Association of Kentucky Independent Colleges and Universities or designee, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. The executive director of the Higher Education Assistance Authority or designee shall serve as a nonvoting member. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.

- (2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.
- (3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.
- (4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.
- (5) The initial board appointments shall be made by October 1, 2000.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The board shall:

- (1) Promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement the provisions of Sections 1 to 7 of this Act;
- (2) Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;
- (3) Invest moneys in the fund in any instruments, obligations, securities, or property as permitted by law and deemed appropriate by the board;
- (4) Procure insurance to protect against any loss in connection with the fund's property, assets, or activities and to indemnify board members from personal loss or accountability from liability arising from any action or inaction as a board member;
- (5) Make arrangements with participating institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the fund of the tuition cost on behalf of a qualified beneficiary to attend a participating institution in which the beneficiary is admitted and enrolled;
- (6) Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including but not limited to, the termination, withdrawal, or transfer of payments under a prepaid tuition contract; tuition shortfalls; number of participants; time limitations for prepaid tuition contracts and the use of tuition benefits; tuition conversions; payment schedules; payroll deductions; penalties for failure of purchasers to adhere to contracts; and transfer of prepaid tuition credits towards private education in the Commonwealth or for out-of-state institutions;
- (7) Obtain appropriate actuarial assistance to establish, maintain, and certify a fund sufficient to defray the obligation of the fund, annually evaluate or cause to be evaluated, the actuarial soundness of the fund, and determine prior to each academic year the amount of prepaid tuition for each standard tuition plan and for each participating institution for specific academic years, the corresponding required amount of tuition credits, the amount of prepaid tuition conversion, and the amount of prepaid tuition academic year conversion;
- (8) Make an annual report each year to the Legislative Research Commission showing the fund's condition; and
- (9) Market and promote participation in the fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) The prepaid tuition contract entered into by the purchaser and the board shall constitute an irrevocable pledge and guarantee by the fund to pay for the tuition of a qualified beneficiary upon acceptance and enrollment at a participating institution in proportion to the number of tuition credits purchased. The fund shall pay this amount to the participating institution on behalf of the qualified beneficiary.
- (2) The fund shall pay the amount of any tuition shortfall to the participating institution on behalf of the qualified beneficiary.
- (3) The purchaser or qualified beneficiary shall pay to the participating institution the amount of any prepaid tuition academic year conversion shortfall and the amount of any prepaid tuition conversion shortfall.
- (4) A qualified beneficiary attending a participating institution may apply tuition credits to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full-time undergraduates at that institution.
- (5) The board and participating institutions may agree that tuition credits remaining in a prepaid tuition account after tuition is paid may be converted into other educational expense credits under administrative regulations promulgated by the board in compliance with Section 529 of the Internal Revenue Code. The board may permit the use of tuition credits for part-time undergraduate enrollment or graduate programs at participating institutions, after an appropriate conversion. Any prepaid tuition remaining in a prepaid tuition account, for reasons other than termination of the

account as provided for in Section 7 of this Act, shall be refunded to the purchaser or the purchaser's designee.

- (6) The value of the prepaid tuition credits shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by federal law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) Purchasers buying tuition credits for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the office. The contract shall provide for the purchase of tuition credits for prepaid tuition for the qualified beneficiary from one (1) to four (4) specific academic years.
- (2) Upon written notification to the office a purchaser may amend the prepaid tuition contract to change:
- (a) The qualified beneficiary;
 - (b) The academic year or years for which tuition credits are purchased;
 - (c) A standard plan designation to a participating institution designation;
 - (d) A standard plan designation to another standard plan designation; or
 - (e) One (1) participating institution designation to another participating institution designation. The value of the tuition credit shall be adjusted under requirements of administrative regulations promulgated by the board.
- (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary and shall be exempt from all state and local taxes including, but not limited to, the intangible personal property tax levied under KRS 132.020, the individual income tax levied under KRS 141.020 and the inheritance tax levied under KRS Chapter 140.
- (4) Nothing in Sections 1 to 7 of this Act or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to a participating institution, be allowed to continue to attend a participating institution after having been admitted, or be graduated from a participating institution.
- (5) Prepaid tuition contract payments shall not be made in real or personal property other than cash and shall not exceed the prepaid tuition. Prepaid tuition contract payments may be made in lump sum installments.
- (6) The purchaser shall designate the qualified beneficiary at the time the purchaser enters into a prepaid tuition contract. In the case of gifts made to the fund, the board shall designate a qualified beneficiary at the time of the gift.
- (7) The prepaid tuition contract shall provide that the purchaser and the qualified beneficiary shall not directly or indirectly or otherwise control the investment of the prepaid tuition account or earnings on the account. Payments made for prepaid tuition shall be accounted for separately for each qualified beneficiary. No interest or earnings on a prepaid tuition contract of the purchaser or qualified beneficiary shall be pledged or otherwise encumbered as security of a debt.
- (8) A prepaid tuition contract does not constitute a security as defined in KRS 292.310 or an annuity as defined in KRS 304.5-030.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) Upon termination of a prepaid tuition contract, the office shall pay from the fund to the purchaser or the purchaser's designee:
- (a) The value of the tuition credits if the contract is terminated for any of the following:
 1. The death of the qualified beneficiary;
 2. The disability of the qualified beneficiary that, in the opinion of the office, would make attendance by the beneficiary at a participating institution impossible or unreasonably burdensome;
 - (b) The purchase price of the tuition credits if the contract is terminated for any of the following:
 1. Failure of the qualified beneficiary who, in the opinion of the office, has made a good faith attempt to gain admission to a participating or nonparticipating institution within the time limits imposed by the board; or
 2. The movement of a family of a qualified beneficiary from Kentucky to another state with a savings plan.
- (2) Upon termination of a prepaid tuition account as a result of a decision by the qualified beneficiary to attend a nonparticipating institution, the office at the direction of the beneficiary and upon presentation of proof of the beneficiary's acceptance by and enrollment in the nonparticipating institution, shall pay from the fund to the institution the value of the tuition credits as determined by the board of directors for the postsecondary education prepaid tuition program. If the cost of tuition exceeds the value of the tuition credits, it shall be the responsibility of the beneficiary to pay the difference. If the value of the tuition credits exceeds the cost of tuition, the beneficiary shall be given a refund equal to the difference.
- (3) At the option of the purchaser or the purchaser's designee, the purchase price of any unused tuition credits may be carried forward to another academic year or refunded by the office from the fund.

- (4) Upon termination of a tuition account as a result of a decision by the qualified beneficiary not to attend a participating or nonparticipating institution, within time limits determined by the board, the purchaser or purchaser's designee shall receive the purchase price of the tuition credits.
- (5) The office may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.
- (6) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the purchaser or the purchaser's designee shall receive a refund from the fund by the office consisting of the amount of the prepaid tuition for the number of tuition credits purchased for that academic year.
- (7) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky Higher Educational Savings Plan Trust, the purchaser may do so under administrative regulations promulgated by the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund and the board of the Kentucky Higher Education Assistance Authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

The Tuition Account Program Office is hereby established within the Office of the State Treasurer for the purpose of implementing and administering the prepaid tuition account program established in Sections 1 to 7 of this Act. The program shall provide for the purchase of tuition credits for a beneficiary to attend a participating postsecondary institution.

SECTION 9. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

Seventy-five percent (75%) of the balance of the abandoned property funds shall be available for support of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund. Transfers from the abandoned property fund to the trust fund are authorized in order to meet any unfunded liability as determined by the board.

Section 10. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The participant shall retain ownership of all contributions made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement. In the event the participation agreement is terminated, the participant shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and a reversionary right to receive interest on all the contributions at the rate of interest at which the contributions were invested, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection ~~(8)(7)~~ of this section;
- (3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund established in Section 2 of this Act, and in compliance with administrative regulations promulgated by the board for the savings plan trust.
- (4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section;
- ~~(5)(4)~~ The institution of higher education shall obtain ownership of the contributions made for the higher education costs paid to the institution at the time each payment is made to the institution;
- ~~(6)(5)~~ Any amounts which may be paid pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section, shall be owned by the trust;
- ~~(7)(6)~~ A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- ~~(8)(7)~~ Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and

~~(9)~~~~(8)~~ Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 11. KRS 164.746 is amended to read as follows:

- (1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the president of the Council on Postsecondary Education, the State Treasurer, and the secretary of the Department of Finance shall serve as nonvoting ex-officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.
- (2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.
- (3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.
- (4) Board members shall receive compensation for their services, in the amount of sixty-five dollars (\$65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.
- (5) The board shall provide for the holding of regular meetings and special meetings.
 - (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.
 - (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.
- (7) The board may:
 - (a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and
 - (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.
- ~~(8) The board or a designee shall develop in cooperation with the Office of the Treasurer a joint marketing plan for the Kentucky Savings Plan Trust and the Commonwealth Prepaid Tuition Plan.~~

Section 12. Initial purchase of prepaid tuition credits through the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund shall commence no sooner than the academic year 2001-2002.

Section 13. During the 2000-2002 biennium, the prepaid postsecondary tuition administrative account is authorized to borrow a maximum of \$1,000,000 from the abandoned property account.

The Committee Amendment No. 1 to the Committee Substitute **HB 180** is as follows:

On page 15, line 26, after "~~(8)~~" by deleting lines 26 and 27 in their entirety and inserting in lieu thereof:

"The Office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300."; and

On page 16, line 1, by deleting line 1 in its entirety.

Calendar

HB 189, HB 190, HB 412, HB 539, HB 604, HB 645, SB 62, HB 390, HB 396, HB 517, HB 525, HB 621, HB 634, HB 259, HB 329, HB 494, SB 33, HB 5, HB 593, HB 611, SB 123, and SCR 15 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SCR 20, HB 443, HJR 78, SB 39, HB 189, HB 396, HB 412, HB 517, HB 539, and HB 604** have been posted for passage in the Orders of the Day for February 22, 2000.

Orders of the Day

HB 359, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **HB 359**. Agreed.

Representative Wilkey moved the adoption of Committee Amendment No. 1 to **HB 359**. Agreed.

Representative Wilkey moved that **HB 359**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 18, 2000 roll call on **HB 359** - Appendix.)

HB 359, as amended, was passed.

Representative Wilkey moved the adoption of Floor Amendment No. 2 Title to **HB 359**. Agreed, and the Title was agreed to.

Representative Wilkey moved that the vote by which **HB 359**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 18, HB 81, HB 84, HB 166, and HB 168** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time: 10:40 a.m.)

Orders of the Day (Continued)

HB 595, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Substitute to **HB 595**. Agreed.

Representative Bruce moved that **HB 595**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See February 18, 2000 roll call on **HB 595** - Appendix.)

HB 595, by way of Committee Substitute, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 595**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 616 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 616** be passed.

On the roll call the vote was: **Yeas 93, Nays 2.** (See February 18, 2000 roll call on **HB 616** - Appendix.)

HB 616 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 616** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 462, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 462**. Agreed.

Representative Rasche moved that **HB 462**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 18, 2000 roll call on **HB 462** - Appendix.)

HB 462, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 462**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 8** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 18, 2000 roll call on **HCR 8** - Appendix.)

HCR 8 was adopted.

Representative Stumbo moved that the vote by which **HCR 8** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 11** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 18, 2000 roll call on **HCR 11** - Appendix.)

HCR 11 was adopted.

Representative Stumbo moved that the vote by which **HCR 11** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 22 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 22** be adopted.

On the roll call the vote was: **Yeas 89, Nays 0.** (See February 18, 2000 roll call on **HCR 22** - Appendix.)

HCR 22 was adopted.

Representative Stumbo moved that the vote by which **HCR 22** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved that **HR 75** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 18, 2000 roll call on **HR 75** - Appendix.)

HR 75 was adopted.

Representative Branham moved that the vote by which **HR 75** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 483 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 483** be passed.

On the roll call the vote was: **Yeas 92, Nays 2.** (See February 18, 2000 roll call on **HB 483** - Appendix.)

HB 483 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 483** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 231 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved that **HB 231** be passed.

On the roll call the vote was: **Yeas 91, Nays 1.** (See February 18, 2000 roll call on **HB 231** - Appendix.)

HB 231 was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 231** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until February 22, 2000, 4:00 p.m. Agreed.

Representative Stumbo moved that **HR 43** and **HB 188** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 754, by Representative Anderson: AN ACT relating to state employee health benefits.

HB 755, by Representatives Bather and Stumbo: AN ACT relating to environmental protection.

HB 756, by Representatives Wilkey and Napier: AN ACT relating to special wastes.

HB 757, by Representative Damron: AN ACT relating to health insurance.

HB 758, by Representative McKee: AN ACT relating to the licensing of veterinarians.

HB 759, by Representatives Riggs, Simpson, Bowling, D. Butler, Gray, Stumbo, Wilkey, Nesler, Horlander, P. Clark, and Weaver: AN ACT relating to reorganization.

HB 760, by Representative Ratliff: AN ACT relating to motor vehicle insurance.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 481, HB 725, HB 586, HB 750**

Banking and Insurance: **HB 697**

Natural Resources and Environment: **HB 642, SB 105**

Appropriations and Revenue: **HB 85, HB 44, HB 63, HB 136, HB 202, HB 220, HB 268, HB 386, HB 476, HB 527, HB 545, HB 572, HB 617, HB 629, HB 643, HB 664, HB 536**

Motions, Petitions, and Communications (Continued)

Representative Richards moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richards moved that his vote be changed from "abstain" to "yea" on **HB 595**. Agreed.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 67**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in honor and memory of Private Robert Brooks of Sadieville, Kentucky. The beloved son of Mr. and Mrs. Roy Brooks, this young man left the farm he grew up on to enlist in the Armed Forces during the pre-World War II period, where he was enrolled in a regular army unit. Later transferred to the segregated white Armored Division National Guard Unit, this courageous young African-American was the first Scott County soldier to die in action and the first member of the Armored Force to die in combat. He was killed by flying shrapnel during a Japanese action which took place near Fort Stotsenberg in the Philippines, following the attack at Pearl Harbor in World War II. Lost to all those who loved him while serving to protect the freedoms enjoyed by this great nation, his friend, the late Sam Wood, worked diligently to have the Scott County Community appropriately recognize the sacrifices of Private Robert Brooks and his family. The Armored Force recently, and with full military honors, dedicated the main parade ground at Fort Knox, designated as Brooks Field, in his honor. A historical marker in his honor is to be dedicated this weekend at Sadieville's former depot and future city hall. The members of this distinguished body do hereby join with Representative Charlie Hoffman in paying ardent tribute to the memory of this brave young soldier and in extending to his family, friends and fellow citizens expressions of sincere gratitude that the supreme sacrifice of Private Robert Brooks has been appropriately acknowledged and honored. Done in Frankfort, this eighteenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 67 was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 69**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Dr. Henry R. Bell and expresses deepest sympathy to his loving wife, Glenda Woodard Bell; his beloved children, Henry R. Bell, III and Dorothy Bowden Bell; and to his devoted siblings, Morton Bell, Frances Schroeder, Sarah Dunn and Martha Alice Young. A native of Logan County, he was the treasured son of the late Henry R. Bell, Sr. and Kathleen Street Bell, he was preceded in death by his older brother, Dr. Benjamin Street Bell. A 1958 graduate of Todd County High School, he earned his bachelor of science degree from Western Kentucky University and his medical degree from the University of Kentucky, where he was the recipient of a Rural Health Scholarship. A Vietnam veteran who was the recipient of two Bronze Stars and the Vietnamese Medal of Honor, he opened his practice upon his return to Elkton in 1969. Vitrally involved in many professional activities, he actively participated in many community activities. His valuable contributions to such organizations as the Jaycees, Hopkinsville Community College, Rotary, the Chamber of Commerce, the Pennyryle Arts Council, and Kentucky Educational Television have had a lasting impact on his community. Inasmuch as Dr. Henry Bell is remembered this day as a most remarkable citizen, one who gave much, who served well, and who, in return, earned the love and respect of all whose lives were touched by his generous and exuberant presence, the members of this august body do solemnly join Representative Sheldon Baugh in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this eighteenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 69 was adopted without objection.

Representative Jordan moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **HB 616, HB 359, and HB 595**. Agreed.

Representative Nesler moved the adoption of the following **Legislative Citation No. 68**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Cecil B. Wyatt and offers its sincerest condolences to all those who share in the loss of this distinguished Kentucky citizen. The beloved husband of the late Lou Annie Coleman Wyatt; cherished father of Kay Sexton, Raymond L. Wyatt and the late Lou

Ella McManus; esteemed brother of Nellie Hodges and the doting grandfather of seven grandchildren and six great-grandchildren, Mr. Wyatt was a former employee of the International Shoe Factory and a devoted member of the Liberty Baptist Church. He will long be remembered for the honor and integrity with which he lived his life and for the untiring enthusiasm he exhibited while continually working towards the betterment of his community. The esteemed members of this honorable body join with Representative Fred Nesler in honoring the memory of this beloved gentleman for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this eighteenth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 68 was adopted without objection.

Representative Marzian moved the adoption of the following **HR 107**:

HR 107, A RESOLUTION adjourning the House of Representatives in honor of Jon Jory.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of those people who have enriched the lives of so many Kentuckians; and

WHEREAS, Jon Jory, Producer-Director of Actors Theatre of Louisville, has, after 31 successful and instrumental years in this great Commonwealth, accepted a professorship teaching acting and directing at the renowned School of Drama at the University of Washington in Seattle, Washington; and

WHEREAS, Jon Jory has received unprecedented success through his leadership, guidance, and untiring involvement in steering Actors Theatre of Louisville down a true path of financial stability with an operating budget growing from \$255,000 in 1969 to \$8 million annually; and the successful accomplishments of this talented producer-director have brought theatrical integrity to one of the most acclaimed resident theaters in the United States, Actors Theatre of Louisville; and

WHEREAS, Jon Jory, in promoting creative expression in the truest sense, has brought countless hours of entertainment to the citizens of this great Commonwealth, producing 1,385 plays at Actors Theatre of Louisville and directing 140 of them; he is a living legacy who has brought passion, dedication, intelligence, and social consciousness to Kentucky's stage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hails and commends Jon Jory for his many years of dedicated service to Actors Theatre of Louisville. His expertise in theatrical arts is immeasurable, and will have lasting impact on the Commonwealth of Kentucky. We congratulate Jon Jory upon his genius and commitment to excellence, and we wish to him success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Jon Jory.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Jon Jory, Producer-Director of Actors Theatre of Louisville, 316 West Main Street, Louisville, Kentucky 40202.

There being no objection **HR 107** was adopted.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HCR 22**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 2 to **HB 611**, by Representative T. Turner:

By deleting all of the bill following the enacting clause, and inserting in lieu there of the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

- (1) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation;***
- (2) "Master Settlement Agreement" means the agreement between certain tobacco companies and states' Attorneys General dated November 23, 1998, that is often referred to as the "Phase I Settlement Agreement";***
- (3) "Master Settlement Agreement funding" means moneys paid to the state as a result of the Master Settlement Agreement. Payments are scheduled to come to the state each year through the year 2525 and possibly beyond;***
- (4) "National Tobacco Grower Settlement Trust Agreement" means the agreement between certain tobacco companies and tobacco-growing states, designed to provide funds to tobacco growers and tobacco quota holders, and often referred to as the Phase II Agreement; and***

- (5) "Phase II funding program" means the Commonwealth's program to distribute Phase II funds to tobacco growers and quota holders for the twelve (12) year life of Phase II funding.**

Section 1. KRS 248.654 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the ~~Master[tobacco]~~ Settlement Agreement (Phase I) or related federal legislation. Any funds designated to the Commonwealth from the Master Settlement Agreement or related federal legislation shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco growers and quota owners[farmers and tobacco impacted communities and health related areas].**
- (2) All moneys in the tobacco settlement agreement fund which come from Master Settlement Agreement (Phase I) funding shall be distributed to tobacco growers and quota owners by the Finance and Administration Cabinet according to a plan which shall be provided by the Kentucky Settlement Trust Corporation created in House Bill 96 of the 2000 Regular Session. In preparing the plan for the Finance and Administration Cabinet to distribute moneys in the tobacco settlement agreement fund, the corporation shall use the same formula that it provides for distribution of National Tobacco Settlement Trust Agreement (Phase II) funds to tobacco growers and quota owners each year of the Phase II funding program. After the Phase II funding program ends, the Kentucky Settlement Trust Corporation shall continue to exist and shall continue to provide a plan to the Finance and Administration Cabinet for distribution of moneys in the tobacco settlement agreement fund. The corporation shall continue to provide the plan and a formula used for distribution of the moneys to tobacco growers and quota owners for the life of Master Settlement Agreement funding."**

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 4: Representative Wilkey
HB 213: Representative Burch
HB 390: Representative Bather
HB 437: Representative Cherry
HB 570: Representative Coleman
HB 606: Representative Richards
HB 611: Representative Coleman
HB 759: Representative Allen

Announcements

The following meetings were announced:

State Government, February 22, 2000, noon

Labor and Industry, February 23, 2000, 8:00 a.m., Room 149

Budget Review Subcommittee on Human Services, February 22, 2000, noon, Room 131

Appropriations and Revenue, February 22, 2000, 10:00 a.m.

Tourism, Development, and Energy, February 24, 2000, upon adjournment

The following meeting was canceled:

Tourism, Development, and Energy, February 22, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., February 22, 2000.

The motion that the House adjourn until 4:00 p.m., February 22, 2000, was adopted by voice vote.